

# **Draft Environmental Assessment for a Draft Annual Funding Agreement**

*National Bison Range Complex*  
*Montana*

**August 2014**

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# Contents

<i>Summary</i>	5
<i>Abbreviations</i>	7
<b>CHAPTER 1—Purpose and Need for Action</b>	9
<b>CHAPTER 2—Decision to Be Made</b>	13
<b>CHAPTER 3—Background</b>	15
3.1 The National Bison Range Complex	16
3.2 The Confederated Salish and Kootenai Tribes	21
3.3 The National Wildlife Refuge System	21
3.4 National Bison Range Complex Purposes	22
3.5 The Self-Governance Policy of the United States	23
3.6 The Self-Governance Act and Annual Funding Agreements	24
<b>CHAPTER 4—Public Involvement</b>	33
4.1 Public Scoping	33
4.2 Issues Identified During Scoping	33
<b>CHAPTER 5—Proposed Action and Alternatives</b>	35
5.1 Elements Common to Alternatives Considered for Further Analysis	35
5.2 Alternative A—No Action	36
5.3 Alternative B—Draft AFA (Proposed Action)	41
5.4 Alternative C—AFA for Fire and Visitor Programs	44
5.5 Alternative D—AFA Same as Alternative C Plus Incremental Addition of More CSKT Staff in All Programs	47
5.6 Alternative E—AFA Same as Alternative D Plus District Programs with Combined Service and CSKT Staff in All Programs	50
5.7 Alternatives Considered but Eliminated from Further Analysis	54
<b>CHAPTER 6—Affected Environment</b>	57
6.1 Physical Environment	58
6.2 Habitat Management	60
6.3 Wildlife Management	66
6.4 Threatened and Endangered Species	73
6.5 Special Management Areas	74
6.6 Research, Inventory, and Monitoring	74
6.7 Visitor Services	76
6.8 Cultural Resources	80
6.9 Operations	83
6.10 Socioeconomics	87

<b>CHAPTER 7—Environmental Consequences of the Proposed Action and Alternatives</b>	<b>93</b>
7.1 Analysis Approach	94
7.2 Habitat Management	95
7.3 Wildlife Management	96
7.4 Research, Inventory, and Monitoring	97
7.5 Visitor Services	98
7.6 Cultural Resources	99
7.7 Operations	99
7.8 Socioeconomics	101
7.9 Summary of Environmental Consequences	102
7.10 Cumulative Effects	103
<b>CHAPTER 8—Agency Coordination</b>	<b>107</b>
Appendix A, Draft Annual Funding Agreement	109
Appendix B, Federal Register Notice	149
<i>Bibliography</i>	155
<b>FIGURES</b>	
1. Map of the National Bison Range Complex within the boundary of the Flathead Indian Reservation, Montana	10
2. Base map of the National Bison Range, Montana	17
3. Base map of the Ninepipe National Wildlife Refuge, Montana	19
4. Base map of the Pablo National Wildlife Refuge, Montana	20
5. Organizational staff chart for alternative A (no action)	37
6. Organizational staff chart for alternative B, the draft AFA (proposed action)	42
7. Organizational staff chart for alternative C, AFA for fire and visitor programs	45
8. Organizational staff chart for alternative D, AFA same as alternative C with incremental addition of more CSKT staff	48
9. Organizational staff chart for alternative E, AFA same as alternative D plus district programs with combined Service and CSKT staff in all programs	51
10. Current organizational staff chart	86
<b>TABLES</b>	
1. Management units of the National Bison Range Complex, Montana	57
2. List of invasive plant species identified on the National Bison Range Complex, Montana, as of 2012	63
3. The species and estimated populations of other big game animals on the National Bison Range, Montana, in 2012	71
4. Additional cost estimates for each alternative when compared to current conditions	100
5. Alternative employment and annual labor income estimates	102
6. Summary of environmental consequences	102

# Summary

We, the U.S. Fish and Wildlife Service, want to continue forging long-term partnerships with the Confederated Salish and Kootenai Tribes at the National Bison Range Complex in Montana. We have conducted this environmental analysis to evaluate options for entering into an annual funding agreement with the Tribes for managing or assisting with the operations of some portions of the National Bison Range Complex.

Located in northwestern Montana, most of the National Bison Range Complex is located within the boundaries of the Flathead Indian Reservation, a 1.3 million-acre area established in 1855 through the Treaty of Hellgate with the Confederated Salish and Kootenai Tribes.

Under the authority of the Indian Self-Determination and Education Assistance Act, as amended, the Confederated Salish and Kootenai Tribes were one of the first to achieve self-governance. The 1994 amendment to that law, known as the Tribal Self-Governance Act, gave self-governing tribes the opportunity to exercise their inherent self-governing powers through greater control over tribal affairs and enhanced tribal governmental responsibilities. This amendment also allowed tribes to request negotiations for annual funding agreements with Department of the Interior agencies for “other programs, services, functions, and activities, or portions thereof ... which are of special geographic, historical, or cultural significance to the participating Indian tribe requesting a compact.”

On November 10, 2011, the Confederated Salish and Kootenai Tribes requested negotiations with the U.S. Fish and Wildlife Service for a 5-year annual funding agreement allowing them to manage programs on the National Bison Range Complex. This annual funding agreement would only cover the activities occurring in the parts of the National Bison Range Complex within the boundaries of the Flathead Indian Reservation:

- National Bison Range
- Ninepipe National Wildlife Refuge
- Pablo National Wildlife Refuge
- Nine waterfowl production areas in the Lake County portion of the Northwest Montana Wetland Management District

The remaining National Bison Range Complex units, including Lost Trail National Wildlife Refuge and those portions of the Northwest Montana Wetland Management District outside the Reservation boundary, would not be included in any AFA. In addition, the management and enforcement of the U.S. Fish and Wildlife Service’s conservation easement agreements would remain with the U.S. Fish and Wildlife Service.

The National Bison Range Complex is best known for the bison herd that roams the National Bison Range. More than 205 bird species have been recorded in the area—many nesting on or migrating through the National Bison Range Complex. Its units are generally surrounded by private

land that is mostly used as livestock pasture and for hay or other crop production. These lands also border some State and tribal lands that are managed for conservation purposes.

We prepared this environmental assessment to document our analysis of alternatives for an annual funding agreement with the Confederated Salish and Kootenai Tribes. Implementation of any of the alternatives would involve changes to the staff and administration of the National Bison Range Complex, so we developed a range of alternatives with different levels of program management by the Confederated Salish and Kootenai Tribes and various staff configurations. In this environmental assessment, we describe in detail the following alternatives and their expected consequences:

- Alternative A—No Action
- Alternative B—Draft Annual Funding Agreement (Proposed Action)
- Alternative C—Annual Funding Agreement for Fire and Visitor Programs
- Alternative D—Annual Funding Agreement Same as Alternative C Plus Addition of More Confederated Salish and Kootenai Tribes Staff in All Programs
- Alternative E—Annual Funding Agreement Same as Alternative D Plus District Programs with Combined U.S. Fish and Wildlife Service and Confederated Salish and Kootenai Tribes Staff in All Programs

# Abbreviations

<b>Administration Act</b>	National Wildlife Refuge System Administration Act of 1966
<b>AFA</b>	Annual funding agreement
<b>BIA</b>	Bureau of Indian Affairs
<b>Bison Range</b>	National Bison Range
<b>cfs</b>	Cubic feet per second
<b>CSKT</b>	Confederated Salish and Kootenai Tribes
<b>district</b>	Northwest Wetland Management District
<b>DOI</b>	Department of the Interior
<b>EA</b>	Environmental assessment
<b>°F</b>	degrees Fahrenheit
<b>FWRC</b>	Confederated Salish and Kootenai Tribes' Division of Fish, Wildlife, Recreation, and Conservation
<b>FWS</b>	U.S. Fish and Wildlife Service
<b>GS</b>	General Schedule
<b>IPA</b>	Inter-Governmental Personnel Act of 1970
<b>NBR</b>	National Bison Range
<b>NBRC</b>	National Bison Range Complex
<b>NEPA</b>	National Environmental Policy Act
<b>Ninepipe Refuge</b>	Ninepipe National Wildlife Refuge
<b>Pablo Refuge</b>	Pablo National Wildlife Refuge
<b>range</b>	National Bison Range
<b>refuge complex</b>	National Bison Range Complex
<b>Refuge System</b>	National Wildlife Refuge System
<b>reservation</b>	Flathead Indian Reservation
<b>Self-Determination Act</b>	Indian Self-Determination and Education Assistance Act of 1975
<b>Self-Governance Act</b>	Tribal Self-Governance Act of 1994
<b>Service</b>	U.S. Fish and Wildlife Service
<b>Tribes</b>	Confederated Salish and Kootenai Tribes
<b>U.S.</b>	United States
<b>U.S.C.</b>	United States Code
<b>USHR</b>	United States House of Representatives
<b>WG</b>	Wage Grade Schedule





# CHAPTER 1

## Purpose and Need for Action

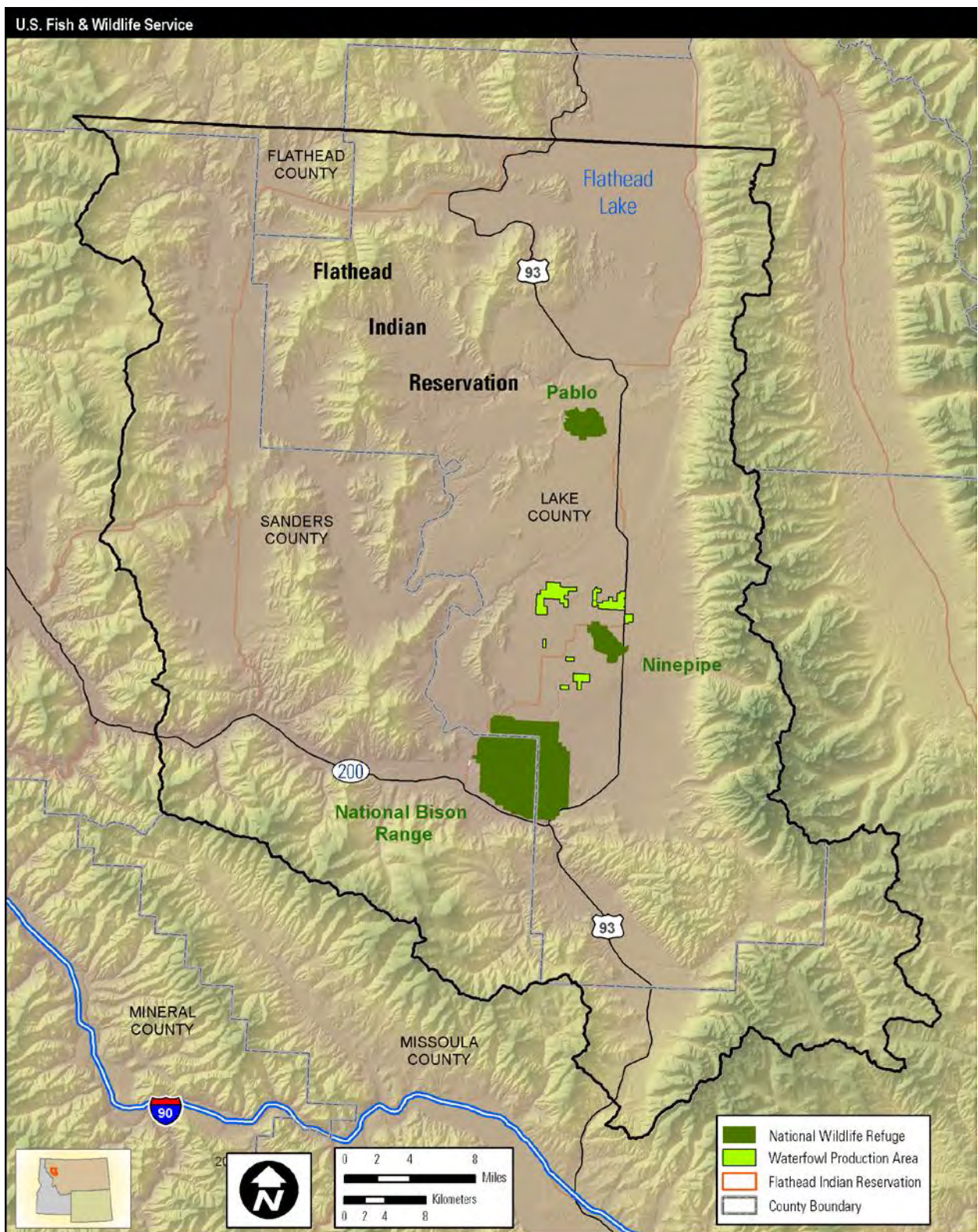
We, the U.S. Fish and Wildlife Service (Service), are an agency of the U.S. Department of the Interior. We have several ongoing partnerships with Confederated Salish and Kootenai Tribes (CSKT or Tribes) that allow us to work together to share resources and knowledge on projects of mutual interest. The Tribes have asked us to further expand and formalize this partnership through an annual funding agreement (AFA).

The purpose for this action—an AFA—is to fulfill our desire to enter into an expanded partnership agreement with CSKT under the authority of the Tribal Self-Governance Act of 1994 (Self-Governance Act) that would allow the Tribes to take part in refuge programs that are of special geographic, historical, or cultural significance. An AFA is needed to carry out the Tribe's desire for tribal involvement in activities on the National Bison Range Complex (refuge complex or NBRC) under the framework of the Self-Governance Act. We have prepared this environmental assessment (EA) to evaluate the draft AFA we have developed with CSKT under the authority of the Self-Governance Act (United States House of Representatives [USHR] 1994). As part of the environmental analysis process under the National Environmental Policy Act (USHR 1970a), we have developed and analyzed four other alternatives (including no action) to the draft AFA, which is the proposed action in this EA. Each AFA alternative would allow CSKT to manage or assist with programs, services, functions, and activities on the refuge complex to various degrees for a term of 5 years.

An AFA would cover specific activities in only those portions of the refuge complex located within the boundaries of the Flathead Indian Reservation (reservation) in Lake and Sanders Counties in the Mission Valley of Montana (figure 1):

- National Bison Range (Bison Range or range)
- Ninepipe National Wildlife Refuge (Ninepipe Refuge)
- Pablo National Wildlife Refuge (Pablo Refuge)
- Nine waterfowl production areas in the Lake County portion of the Northwest Montana Wetland Management District (district)

The remaining refuge complex units, including Lost Trail National Wildlife Refuge and those portions of the Northwest Montana Wetland Management District outside the Reservation boundary, would not be included in any AFA. In addition, the management and enforcement of the Service's conservation easement agreements would remain with the Service.



**Figure 1. Map of the National Bison Range Complex within the boundary of the Flathead Indian Reservation, Montana.**

All of these affected units, totaling 26,604 acres, and associated resources are further described in “Chapter 6—Affected Environment.” The United States owns all the lands within the refuge complex except the Ninepipe and Pablo Refuges. CSKT owns these two refuges, which are tribal trust lands. In 1948, the Service purchased perpetual refuge easements from CSKT that allows the Service to manage these lands as part of the National Wildlife Refuge System (Refuge System).

Besides providing an avenue for involving the Tribes in managing the refuge complex, an AFA should also help the refuge complex to:

- add or combine resources that would increase our capabilities for better understanding, management, and protection of refuge complex resources;
- share biological information and resources on projects and issues of mutual interest, both as colleagues and neighboring landowners;
- develop and deliver quality visitor services programs that interpret and inform visitors about the historical, cultural, and biological aspects of the refuge complex;



# CHAPTER 2

## Decision to Be Made

The Regional Director of our Mountain-Prairie Region will decide whether to proceed with an AFA with the Tribes and, if so, to what degree.

After the public reviews and provides comments on this EA, the planning team will present this document along with a summary of all substantive public comments to our Regional Director. The Regional Director will consider the public's input along with comments from CSKT and select a preferred alternative based on the following:

- our legal responsibilities including the mission and statutes that established and guides the Refuge System
- the purposes of the units in the refuge complex
- the intent of the Self-Governance Act as it relates to the Refuge System
- the consequences of each alternative, as described in this document, and future budget projections

In considering the consequences of each alternative, the Regional Director will decide if effects of each alternative are significant. If the Regional Director finds that no significant impacts would occur, the Regional Director's decision will be disclosed in a finding of no significant impact. If the Regional Director finds a significant impact would occur, an environmental impact statement will be prepared.

If the Regional Director decides to proceed with an AFA, we are required to send the AFA to Congress for a 90-day review and comment period. If approved by Congress, we will immediately begin working with CSKT to begin implementing the selected alternative and associated components as an AFA.



# CHAPTER 3

## Background

We manage the National Bison Range Complex, established in 1908, as part of the Refuge System, which has a mission

*to administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of present and future generations of Americans.*

Located in northwestern Montana, most of the refuge complex is within the boundaries of the Flathead Indian Reservation, a 1.3 million-acre area established in 1855 through the Treaty of Hellgate with CSKT. The CSKT comprise the Bitterroot Salish, Pend d'Oreille, and Kootenai Tribes. Under the authority of the Indian Self-Determination and Education Assistance Act of 1975 (Self-Determination Act) (USHR 1975), as amended, CSKT is recognized as a self-governing tribe.

The Self-Determination Act was intended to assure “maximum Indian participation in the direction of educational as well as other Federal services to Indian communities....” 25 United States Code [U.S.C.] § 450a(a), Public Law No. 93-638, 88 Statute 2203 (1975). The Self-Determination Act authorizes the Secretary of the Interior to enter into contracts with Indian tribes to have them perform programs, functions, services, or activities, including administrative functions that would otherwise be performed by the U.S. Department of the Interior for the benefit of Indians. 25 U.S.C. § 450f(a)(1). In 1994, the act was amended when Congress passed the Self-Governance Act, which has given tribes the opportunity to exercise their inherent self-governing powers through greater control over tribal affairs and enhanced tribal governmental responsibilities. CSKT has exercised this authority and has negotiated for the administration of many programs, particularly those administered by the Bureau of Indian Affairs (BIA) and the Indian Health Service.

As part of negotiating for agreements under the Self-Governance Act for BIA and non-BIA programs otherwise available to Indian tribes or Indians (section 403[a] and [b]), each self-governing tribe may also request negotiations for other non-BIA Department of the Interior activities as described in section 403(c) of the Self-Governance Act:

403(c) Additional Activities. Each funding agreement negotiated pursuant to subsections (a) and (b) of this section may, in accordance to such additional terms as the parties deem appropriate, also include other programs, services, functions, and activities, or portions thereof, administered by the Secretary of the Interior which are of special geographic, historical, or cultural significance to the participating Indian tribe requesting a compact.

On November 11, 2010, CSKT requested negotiations, under the authority of section 403(c), for an AFA on the refuge complex. This is the third negotiated AFA with CSKT in the last 10 years. The two previous AFAs were not renewed or rescinded, as described at the end of section 3.6 below. New

negotiations for an AFA concluded in March 2012, and the resulting draft AFA is the proposed action (alternative B) in this EA and is being evaluated along with four alternatives.

The units of the refuge complex affected by this proposal are in the Mission Valley of northwestern Montana within the boundaries of the Flathead Indian Reservation. The refuge complex headquarters is located in Moiese, Montana, in Lake County, about 45 miles north of Missoula. This proposal does not include Lost Trail National Wildlife Refuge, the conservation easement program, or those units within the Northwest Wetland Management District in Montana that are located outside the boundaries of the Reservation.

The refuge complex is located on the gently rolling, glacial till deposits of ancient Lake Missoula and terminal moraines (mass of rocks and sediment) creating high densities of small wetlands. More than 205 bird species have been recorded in the area, a host for migrant birds of the Pacific flyway. Of these species, many are known to nest on the refuge complex and the remainder can be seen during the spring and fall migrations when peak numbers occur. The units of the refuge complex are generally surrounded by private land that is predominantly used as livestock pasture and for hay or other crop production. Refuge complex lands also border some State and tribal lands that are managed for conservation purposes.

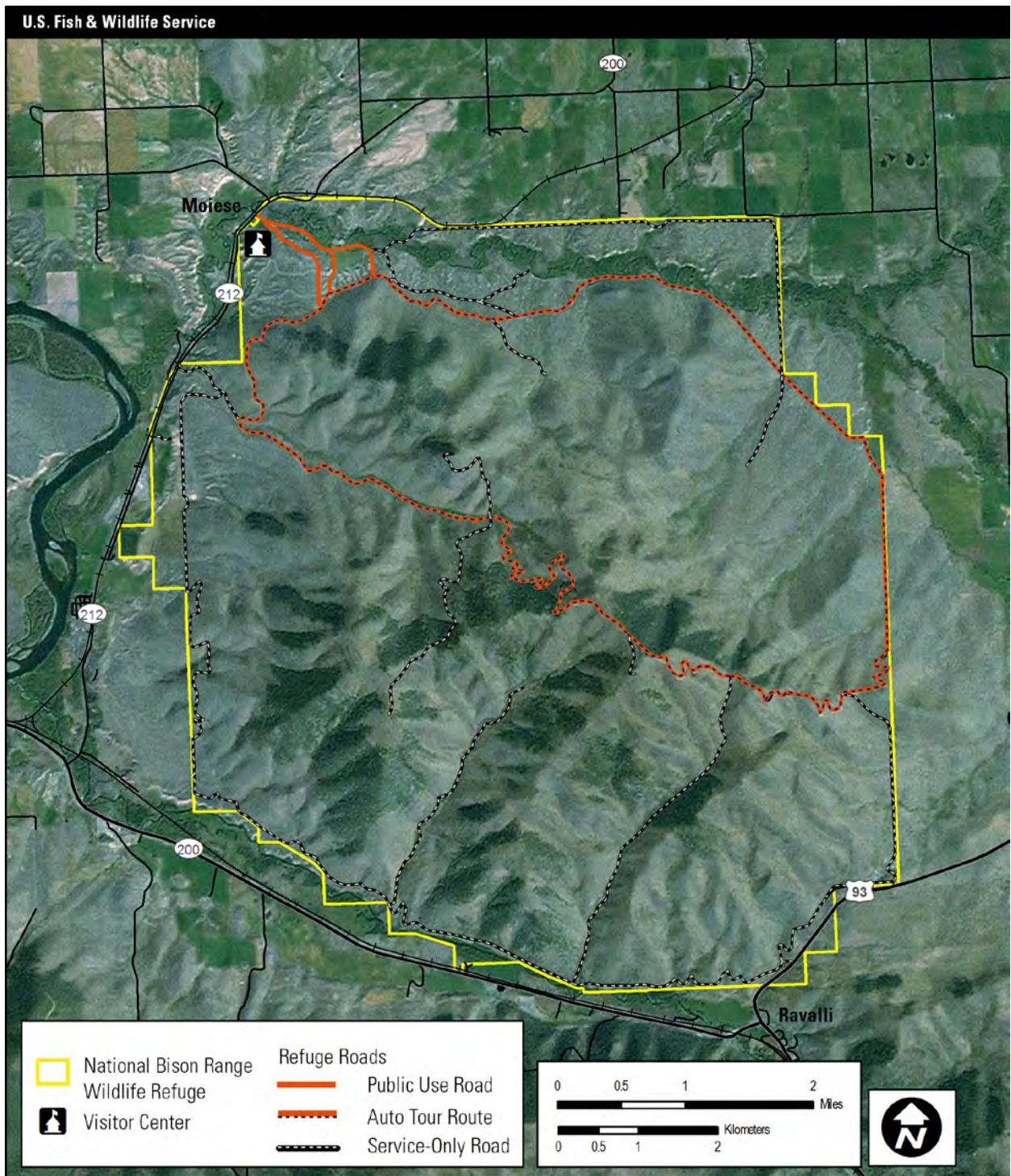
The refuge complex is best known for the bison herd that roams the Bison Range. The beautiful setting of the Mission Valley combined with this diversity of wildlife species attracts almost 150,000 visitors to the refuge complex annually. These visitors are accommodated in the visitor center and on the 19-mile Red Sleep Mountain Drive that travels through the various habitats found on the Bison Range.

## **NATIONAL BISON RANGE**

Located about 40 miles north of Missoula, Montana, the National Bison Range is a national wildlife refuge within the Refuge System. Established in 1908, “for a permanent national Bison Range for the herd of bison to be presented by the American Bison Society.” the Bison Range (figure 2) is one of the oldest units of the Refuge System. Totalling 18,800 acres, the range was established by special legislation (35 Statute 267) and was the first refuge for which Congress appropriated funds for land acquisition.

We are responsible for managing, sustaining, and enhancing the herd of bison, averaging 350 animals, and other wildlife, including migratory birds, that use the diversity of grasslands, forests, and streams found on the refuge.





**Figure 2. Base map of the National Bison Range, Montana.**

The refuge is open to the public year-round, although part of the Red Sleep Mountain Drive is closed in the winter. The most popular public use activity is wildlife observation and photography. The entire refuge is closed to hunting, but fishing is permitted on designated sections of Mission Creek.

## **NINEPIPE AND PABLO NATIONAL WILDLIFE REFUGES**

Ninepipe National Wildlife Refuge (figure 3) encompasses 2,062 acres and is approximately 5 miles south of Ronan, Montana. Pablo National Wildlife Refuge (figure 4) is 2,542 acres and is approximately 2 miles south of Polson, Montana.

Both of these refuges are located on CSKT tribal trust lands. In 1910, these tribal trust lands were first designated as irrigation reservoirs as part of the Flathead Irrigation Project. In 1921, President Harding signed Executive Orders 3503 and 3504, which established these same lands as national wildlife refuges for migratory birds. It was not until 1948 that the Federal Government compensated CSKT for past and future reservoir operations at these refuges. At that time, the Government also bought an easement from CSKT for the right to operate these lands and waters as national wildlife refuges. In this easement agreement, it was written that CSKT “shall have the right to use such tribal lands, and to grant leases or concessions thereon, for any and all purposes not inconsistent with such permanent easement.”

The refuges have relatively flat terrain and contain both natural and managed wetlands and grasslands. These refuges provide nesting and breeding habitat for migratory birds such as waterfowl, shorebirds, grassland birds, and wading birds. The Ninepipe Refuge is surrounded by State land managed by the Montana Department of Fish, Wildlife, and Parks as a wildlife management area.

Both refuges are open seasonally for compatible public use, primarily fishing and wildlife observation and photography. These refuges are not open to hunting and are closed seasonally to provide refuge areas primarily for migrating and nesting birds.

## **NORTHWEST MONTANA WETLAND MANAGEMENT DISTRICT**

The Northwest Montana Wetland Management District was established in the 1970s. The Lake County part of the district encompasses nine waterfowl production areas totaling 3,268 acres: Anderson, Crow, Duck Haven, Ereaux, Herak, Johnson, Kickinghorse, Montgomery, and Sandsmark. All these units contain both wetland and grassland components that we manage for nesting, breeding, resting, and feeding areas for a variety of wetland-dependent migratory birds.

These waterfowl production areas are open to the public year-round for wildlife observation and photography. Hunting of waterfowl and upland gamebirds is permitted under both State and tribal regulations. Big game hunting and trapping is permitted, but the Flathead Indian Reservation regulations permit only tribal members to harvest big game and trap wildlife within reservation boundaries.





**Figure 3. Base map of the Ninepipe National Wildlife Refuge, Montana.**





**Figure 4. Base map of the Pablo National Wildlife Refuge, Montana.**

The Confederated Salish and Kootenai Tribes comprise primarily Salish (sometimes known as the Bitterroot Salish or Flathead), Pend d'Oreille (also known as Kalispel), and Kootenai Tribes. The 1.317 million-acre Flathead Indian Reservation is now the home of CSKT, but their ancestors' aboriginal territory encompassed most of what is now known as western and central Montana, parts of Idaho, eastern Washington, British Columbia, and Wyoming. Their home territory was mostly in the Columbia River drainage. However, the aboriginal territories of the Tribes encompassed vast areas on both sides of the Continental Divide, as documented in recorded oral histories, historical records, and many sources that credibly describe their tribal cultures. In the 19th century, the aboriginal territory of the Tribes west of the Continental Divide exceeded 20 million acres, most of which they ceded (surrendered) to the United States in the 1855 Treaty of Hellgate (12 Statute 975). In this treaty, negotiated with Washington Territorial Governor Stevens, CSKT reserved for themselves certain areas including the Flathead Indian Reservation as well as the "right of taking fish at all usual and accustomed places, in common with citizens of the Territory...together with the privilege of hunting [and] gathering roots and berries...."

### **3.3 The National Wildlife Refuge System**

Beginning in 1903 with President Theodore Roosevelt's designation of Pelican Island, Florida, as a bird sanctuary, and continuing through the 1960s, Congress and Presidents used a variety of authorities for wildlife conservation purposes. They used Executive orders, special acts of Congress, and general legislative authorities such as the Migratory Bird Conservation Act and the Fish and Wildlife Coordination Act to create hundreds of refuges. However, until 1966 there was no Federal law that tied these many refuges together. That year, Congress passed the National Wildlife Refuge System Administration Act (Administration Act) that created the National Wildlife Refuge System and, among other things, required that each unit of the Refuge System be managed to fulfill its establishment purposes (USHR 1966b).

Congress has twice amended the Administration Act—under the 1976 Game Range Act (USHR 1976) and under the 1997 National Wildlife Refuge System Improvement Act (USHR 1997). The Game Range Act added a new requirement that the Secretary of the Interior must administer the Refuge System through the U.S. Fish and Wildlife Service.

Besides the Administration Act, on March 1996, President Clinton issued Executive Order 12996, "Management and General Public Use of the National Wildlife Refuge System" (FWS 2009). This Executive order established a mission statement and four guiding principles for the Refuge System. The order provided direction to the Secretary "in carrying out his trust and stewardship responsibilities for the Refuge System."

In the 1997 National Wildlife Refuge System Improvement Act, Congress significantly amended the Administration Act, giving much of the language of Executive Order 12996 the force of law, but

also changing some of its guidance including revising the Refuge System’s mission statement as follows:

To administer a national network of lands and waters for the conservation, management, and where appropriate, restoration of the fish, wildlife, and plant resources and their habitats within the United States for the benefit of current and future generations of Americans.

It is the intent of Congress that the Refuge System be managed as a true system, rather than as a collection of disparate units. The Secretary and, through delegation, the Service, is required to manage each unit to fulfill the purposes for which the unit was established and to fulfill the mission of the Refuge System.

### **3.4 National Bison Range Complex Purposes**

Every refuge has one or more purposes for which it was established. This purpose is the foundation on which to build all refuge programs, from biology and public use to maintenance and facilities. We are required to manage each Refuge System unit to fulfill its establishment purposes and allow no third party or public uses that materially interfere with or detract from these purposes, in accordance with the 1997 National Wildlife Refuge System Improvement Act. Refuge purposes are derived from the laws, Executive orders, permits, or other legal documents that provide the authorities to acquire land for a refuge. The following sections describe the establishing purposes for each unit of the refuge complex.

#### **NATIONAL BISON RANGE**

The 18, 800-acre Bison Range was established for the following purposes under the authorities shown:

- “For a permanent national bison range for the herd of bison to be presented by the American Bison Society.” 35 Statute 267, May 23, 1908
- “As refuges and breeding grounds for birds.” Executive Order 3596, December 22, 1921
- “To provide adequate pasture for the display of bison in their natural habitat at a location readily available to the public.” 72 Statute 561, August 12, 1958
- “Suitable for—(1) incidental fish and wildlife-oriented recreational development, (2) the protection of natural resources, (3) the conservation of endangered species or threatened species.” 16 U.S.C. § 460k–1
- “The Secretary ... may accept and use ... real ... property. Such acceptance may be accomplished under the terms and conditions of restrictive covenants imposed by donors.” 16 U.S.C. § 460k–2, Refuge Recreation Act of 1962, as amended

- “For the development, advancement, management, conservation, and protection of fish and wildlife resources.” 16 U.S.C. § 742f(a)(4)
- “For the benefit of the United States Fish and Wildlife Service, in performing its activities and services. Such acceptance may be subject to the terms of any restrictive or affirmative covenant, or condition of servitude.” 16 U.S.C. § 742f(b)(1), Fish and Wildlife Act of 1956

## **NINEPIPE NATIONAL WILDLIFE REFUGE**

The 2,062-acre Ninepipe Refuge was established for the following purposes under the authorities shown:

- “Reserved, subject to Reclamation Service uses ... as a refuge and breeding ground for native birds.” Executive Order 3503, June 25, 1921
- “For use as an inviolate sanctuary, or for any other management purpose, for migratory birds.” 16 U.S.C. § 715d, Migratory Bird Conservation Act

## **PABLO NATIONAL WILDLIFE REFUGE**

The 2,542-acre Pablo Refuge was established for the following purpose under the authority shown:

- “As a refuge and breeding ground for native birds.” Executive Order 3504, June 25, 1921

## **NORTHWEST MONTANA WETLAND MANAGEMENT DISTRICT**

Nine waterfowl production areas cover 3,228 acres in the district, which was established for the following purposes under the authorities shown:

- “As Waterfowl Production Areas subject to ... all of the provisions of such Act [Migratory Bird Conservation Act] ... except the inviolate sanctuary provisions.” 16 U.S.C. 718(c), Migratory Bird Hunting and Conservation Stamp Act
- “For any other management purpose, for migratory birds.” 16 U.S.C. § 715d, Migratory Bird Conservation Act

## **3.5 The Self-Governance Policy of the United States**

Since the Nixon Administration, the Federal Government’s policy toward tribes has been one of self-determination and self-governance. Congress first codified the policy of self-determination and self-governance in the Self-Determination Act. It was enacted to ensure “effective and meaningful participation by the Indian people in the planning, conduct, and administration” of Federal services and programs provided to the Tribes and their members. 25 U.S.C. § 450a (b). As amended, this law (1) established the Self-Governance Demonstration Project, (2) outlined how tribes could achieve self-

governance status, and (3) authorized Indian tribes and organizations to contract for and run Federal service programs that directly benefited tribes and tribal members within agencies like BIA and Indian Health Service.

The CSKT was one of the first tribes to achieve self-governance status under the Self-Determination Act. Between 1991 and 2012 the number of tribes participating in the U.S. Department of the Interior self-governance program has grown from 7 tribes to 251 (44 percent of the 566 federally recognized American Indian and Alaska Native Tribes) (BIA 2012). This program adds, on average, two to three tribes every year.

In 1994, Congress amended the Self-Determination Act, passing the Self-Governance Act, which requires the Secretary of the Interior to carry out a permanent Self-Governance Program.

### 3.6 The Self-Governance Act and Annual Funding

The passage of the Self-Governance Act established the tribal self-governance program. 25 U.S.C. § 458aa. Under this amendment, tribes have the authority to request and enter into negotiations for AFAs with non-BIA Department of the Interior agencies, which includes the U.S. Fish and Wildlife Service (USHR 1994). The Self-Governance Act, 25 U.S.C. § 458aa, *et seq.*, provides, in part:

(a) Authorization. The Secretary shall negotiate and enter into an annual written funding agreement with the governing body of each participating tribal government in a manner consistent with the Federal Government's laws and trust relationship to and responsibility for the Indian people.

(b) Contents. Each funding agreement shall--

...

(2) subject to such terms as may be negotiated, authorize the tribe to plan, conduct, consolidate, and administer programs, services, functions, and activities, or portions thereof, administered by the Department of the Interior, other than through the Bureau of Indian Affairs, that are otherwise available to Indian tribes or Indians, as identified in section 405(c) [25 USCS § 458ee(c)], except that nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions, and activities, or portions thereof, unless such preference is otherwise provided for by law;

...

(c) Additional Activities. Each funding agreement negotiated pursuant to subsections (a) and (b) may, in accordance to such additional terms as the parties deem appropriate, also include other programs, services, functions, and activities, or portions thereof, administered by the Secretary of the Interior which are of special geographic, historical, or cultural significance to the participating Indian tribe requesting a compact.

...



Disclaimer. Nothing in this section is intended or shall be construed to expand or alter existing statutory authorities in the Secretary so as to authorize the Secretary to enter into any agreement under sections 403(b)(2) and 405(c)(1)[subsection (b)(2) of this section and 25 USCS § 458ee(c)(1)] with respect to functions that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe: Provided, however an Indian tribe or tribes need not be identified in the authorizing statute in order for a program or element of a program to be included in a compact under section 403(b)(2) [subsec. (b)(2) of this section].

The Self-Governance Act requires the Secretary of the Interior to annually publish: (1) a list of non-BIA programs, services, functions, and activities that may be eligible for inclusion in agreements under the self-governance program; and (2) programmatic targets for these bureaus (section 405[c], 25 U.S.C.). Non-BIA programs need not be listed to be eligible for negotiation with eligible tribes. The annual notice was last published in the Federal Register on January 23, 2013 (appendix B).

## **NON-BIA ANNUAL FUNDING AGREEMENTS**

There are eight active AFAs for non-BIA programs across the Nation. AFAs are in force for a term up to 5 years. Examples include an AFA for operating maintenance and construction programs at Grand Portage National Monument in Minnesota and various elective projects at Isle Royal National Park, and an AFA for the development of on-reservation water resource projects managed by the Bureau of Reclamation on the Rocky Boy's Reservation in Montana.

Other than two previous AFAs at the Bison Range noted below, the only other AFA in the Refuge System was one with the Council of Athabascan Tribal Governments at the Yukon Flats National Wildlife Refuge in Alaska. Activities run by those tribes included harvest data collection, planning a meeting to discuss moose management needs, and maintenance of Federal property around Fort Yukon. That AFA is no longer active because of a lack of funding for the agreed-on activities; however, negotiations for a new agreement and activities are ongoing.

## **PAST ANNUAL FUNDING AGREEMENTS AT THE NATIONAL BISON RANGE**

There have been two prior AFAs at the Bison Range in the last 10 years; one in 2005 and again in 2008. Both AFAs were cancelled—the first one by the Service and the second one by the courts.

### **2005 ANNUAL FUNDING AGREEMENT**

On April 23, 2003, the CSKT submitted a letter to the Secretary of the Interior expressing their interest in negotiating an AFA pursuant to the Self-Determination Act for the operation and management of the National Bison Range and ancillary properties on the Flathead Reservation. The Service began negotiations with the CSKT in the summer of 2003. Department of the Interior (DOI) officials also participated in these negotiations. The parties submitted the draft AFA for public comment and announced the public comment period in the Federal Register. On December 15, 2004, the parties signed the Fiscal Years 2005–2006 Annual Funding Agreement Between the United States

Fish and Wildlife Service and the Confederated Salish and Kootenai Tribes of the Flathead Reservation (2005 AFA). On March 15, 2005, following a 90-day congressional review period, the 2005 AFA became effective.

This 18-month long AFA called for the CSKT to perform activities in five general categories: management, biological program (including habitat management), fire program, maintenance program, and visitor services. CSKT was provided funding to recruit their own employees in all of these refuge programs, including a Tribal Coordinator who would supervise all CSKT staff. Service staff working in these programs signed Inter-Governmental Personnel Act of 1970 (IPA) agreements, assigning them to work for the Tribes. CSKT was responsible for the activities identified in the AFA, subject to the final authority of the Service refuge manager. The refuge manager was responsible for evaluating and reporting on the implementation of the AFA.

Implementation of the 2005 AFA resulted in a number of successes:

- bison round-ups in 2005 and 2006
- mid-winter aerial waterfowl survey
- waterfowl banding
- wildfire suppression operations
- release of biological controls to manage invasive species
- disease monitoring assistance
- visitor center staff interaction with refuge visitors and visitor center maintenance
- willingness by Service staffs to train new CSKT staff (providing 325 hours of training)
- development of a detailed work plan describing procedures and expectations

Although the 2005 AFA enjoyed some success, both parties encountered challenges in the following areas:

- maintenance of vehicles and heavy equipment
- maintenance of fencing, grounds and trails
- bison husbandry
- SAMMS (Service Asset Maintenance Management System) database reporting
- wildlife monitoring standards and survey protocols
- personnel management issues

In April 2006, the Service began negotiations for a new AFA since this agreement was set to expire, after which the Service administered an extension of the AFA. Prior to these negotiations (March 2006), the refuge manager submitted a report evaluating the performance of CSKT staff during

the first year of the agreement. As stated by the refuge manager, the intent of this report was to “identify ways to improve the implementation and effectiveness of the AFA in FY-2006 [fiscal year] for the benefit of the NBRC natural resources, and to strengthen the long-term working relationship between CSKT and the FWS.” CSKT was provided a copy of this report and provided numerous rebuttals challenging some of the performance ratings. On December 11, 2006, the Service’s Regional Director ended all further negotiations and allowed the extension of the AFA to draw down.

While there is disagreement among the parties involved about the specific actions and lack of action leading to deficiencies in management of the refuge complex, it is generally understood that the agreement needed improvement in order to be implemented successfully. The objective of these second AFA negotiations was to address some of these deficiencies and issues that occurred in this first agreement.

## **2008 ANNUAL FUNDING AGREEMENT**

A Memo dated November 26, 2007 to the Service’s Regional Director, Mountain-Prairie Region, from Assistant Secretary for Fish, Wildlife and Parks requested that the Service negotiate a second AFA as the lack of a resolution regarding a refuge complex AFA was “distracting the Interior Department from fulfilling its mission,” a view the Assistant Secretary noted was shared by Montana’s congressional delegation.

In January 2008, the Service entered into negotiations with CSKT. In an effort to improve upon the concerns and deficiencies identified during the 2005 AFA, negotiations for the second AFA were markedly different than the first AFA. The negotiations were facilitated by skilled, mutually agreed upon mediators and each agency assigned lead negotiators. The second AFA was fully implemented on January 1, 2009.

Building on the experiences gained during the 2005 AFA, all parties sought to improve coordination and implementation. During negotiations for the second AFA the following changes were made:

- A Refuge Leadership Team composed of the Service refuge manager, Service deputy refuge manager, co-equal CSKT deputy refuge manager, and CSKT lead wildlife biologist was established. The team was required to meet weekly and the primary responsibility was to collaborate in the management of refuge complex. Specific duties included jointly developing the annual work plan, setting work priorities, and preparing periodic status reports and other reports required by the AFA. The team was directed to develop and use consensus-decision making in all of its decisions including addressing personnel management issues.
- The refuge manager and CSKT deputy refuge manager submitted periodic status reports to Interior officials summarizing work completed under the AFA.
- A dispute resolution and appeals process was added which could be elevated to the Department of Interior.
- CSKT was provided a General Schedule (GS)-12 co-equal deputy project leader position.

- Annual work plans were required for each fiscal year which included activities to be performed based on consensus of the leadership team.
- Monthly status reports were required and were submitted to the CSKT, the Service regional leadership and then to the DOI senior management team and the Director of the Office of Self-Governance.
- All base funding (operations and maintenance) was transferred to CSKT.
- CSKT was provided all one-time, non-recurring funding for special projects such as deferred maintenance, vehicle replacement, challenge cost share agreements, and other flexible funding.
- CSKT was provided contract support cost (indirect cost) based on a percentage calculation of the total base funding--approximately 18-20 percent of the total base funding.
- An expectation section was added that clearly stated that “the 2008 AFA represented a significant change in the operation and maintenance of the NBRC, and that many new CSKT employees will be assigned to the NBRC. The parties understand that the first year of this AFA will be a transition year as new employees learn their jobs and the leadership team develops a close working relationship necessary for success.”
- A baseline data section was added that stated, “These parties agreed on a set of NBRC baseline data that will establish the biological conditions and conditions of facilities and equipment existing at the NBRC at the time the AFA becomes effective. Any evaluation of CSKT performance will be measured against the jointly agreed upon baseline data and duties identified in the annual work plan. The first year annual work plan was required to be limited in scope and include only basic fundamental activities necessary to provide for the biological integrity of the NBRC, ensure maintenance of critical infrastructure and equipment and provide basic visitor services.”
- A training section was added that required that, not less than annually, all Service and CSKT employees participate in training to foster a workplace free of discrimination and harassment. Training included cultural awareness, team building, and communication skills.
- A joint monitoring section was added. The Service and CSKT will jointly monitor refuge complex operations and provide each with notice of any concerns. Guidelines were established on how performance management issues would be handled. These included notification orally and in writing to CSKT and the level of notification depended on the severity of the deficiency.
- CSKT was provided funding that allowed them to recruit 16 employees, including a lead biologist, a fish and wildlife biologist, biological science technicians, maintenance staff, visitor center staff, and a co-equal deputy refuge manager.

The first year of the agreement was also considered a ‘training’ year for the new CSKT employees. During that time, the refuge manager and staff were asked to provide added assistance and avoid rating their performance while they learned how to perform their new duties. It was during this

time that the Office of Inspector General (OIG) received allegations of problems, including performance issues involving both CSKT and the Service. The OIG found no evidence to support allegations of inadequate law enforcement coverage, poor bison containment or fence maintenance, improper pesticide applications, or that management of the Bison Range was adrift. A minor deficiency was found in the preparation of annual work plans although this deficiency was within the normal range of annual work planning proficiency that typically occurs within the Region 6 refuge program (DOI Office of the Inspector General 2011).

Under the 2008 AFA the parties built a more constructive partnership; the most successful being the relationship developed between the refuge manager and head of the Confederated Salish and Kootenai Tribes' Division of Fish, Wildlife, Recreation, and Conservation (FWRC) who worked together in an attempt to resolve the operational and administrative issues that arose. The successes of the partnership are a matter of record at all levels of the Service and the DOI as the following examples show:

- An August 3, 2009, email from Refuge Supervisor to CSKT Chairman states that, “[a]ll indications are that our partnership is working well and that wildlife and visitors are being well-served by the combined efforts of the NBR [National Bison Range] staff.”
- A September 1, 2009, email from Refuge Supervisor to CSKT Chairman states that, “[a]ll reports I have are that our folks are working very well together on the ground and that our partnership is working well.”
- A September 10, 2009, email from Refuge Supervisor to CSKT Chairman states that, “Our partnership is getting a lot of very good work done. I was impressed in the August accomplishments on all fronts... [T]he partnership is well meeting public expectations.”
- July 9, 2010 testimony by the Associate Deputy Secretary of the Interior before the House Committee on Natural Resources states that a true partnership and spirit of cooperation has developed from the history of controversy between the Service and the CSKT of the Flathead Nation over the National Bison Range Complex in Montana.
- CSKT recruited some qualified and dedicated staff.
- The CSKT roads, bridges and dams division handled all National Environmental Policy Act (NEPA) compliance and contracting for the Recovery Act bridge replacement project.
- Service employees were willing to train and mentor CSKT staff.
- The CSKT fire program assisted with the Bison Range fire management plan.
- CSKT assisted and participated in refuge complex events.
- The CSKT cultural committee assisted in developing interpretive programs.
- The Service participated in CSKT events including the Annual River Honoring.
- CSKT staff participated in a variety of Service-sponsored trainings (including a comprehensive conservation planning course and refuge management academy).

Regardless of these provisions and successes there were some administrative challenges with the 2008 AFA including:

- the recruitment and retention of qualified CSKT staff,
- operational budget tracking and purchasing,
- efficiencies when the Service was required to follow CSKT purchasing regulations,
- the inability of the refuge manager to manage CSKT staff, which left no recourse to directly resolve conduct and performance issues.

The second agreement was rescinded by the court September 28, 2010 in *Reed v. Salazar*, 744 F. Supp. 2d 98 (U.S. District Court, District of Columbia 2010), not because of the performance of the agreement but on procedural grounds centering on our compliance with NEPA. The court did not cite allegations of poor conduct as influencing its decision under NEPA. The court also did not reach the issue of whether the Tribes had performed poorly under the first AFA and stated the “FWS might have reasonably concluded that the allegations of the CSKT’s poor performance were speculative and thus could be disregarded for purposes of NEPA. Such a decision would be afforded great deference under the [Administrative Procedure Act].”

## **PROPOSED ANNUAL FUNDING AGREEMENT**

On November 11, 2010, CSKT requested that we enter into government-to-government negotiations for a third AFA that would allow the Tribes to receive funding and manage programs on the refuge complex. Based on the successes under the 2008 AFA, the Service is interested in continuing the Self-Governance partnership with CSKT on the refuge complex. The negotiated draft AFA (appendix A) is the proposed action (alternative B) that we evaluate in this document.

In proposing a third AFA with CSKT, the agency has taken some steps to remedy issues of the past AFAs and to improve chances for success. To address the concerns of the two previous AFAs, some improvements have been incorporated to aid performance, and we have sought to satisfy the court’s decision with regard to our compliance with NEPA by preparing an environmental assessment of the proposed action including alternatives to the proposed action. Specifically, this AFA builds on the experience gained from past AFAs in the following areas:

- A leadership team composed of the Service refuge manager and deputy refuge manager, the CSKT wildlife refuge specialist, and the FWRC manager would develop annual work plans, set work priorities, address performance and conduct issues, prepare periodic status reports, and resolve disputes. In the 2008 AFA, the CSKT lead biologist served on the leadership team.
- The CSKT GS-12 co-equal deputy project leader position from the second AFA would be replaced with a GS-11 wildlife refuge specialist.

- The dispute resolution and appeals process would be adjusted from the level of the Service Secretary to the Service Director.
- The operations budget would be retained and managed by the Service. This would include all one-time, non-recurring funding for special projects such as deferred maintenance, vehicle replacement, challenge cost share agreements, and other flexible funding.
- The Service would pay a flat rate of \$5,000 per full-time employee for indirect costs. This would be pro-rated for temporary employees.
- For Service-affected employees subject to an IPA agreement, the options of reassignment or reduction in force would be removed.

These changes seek to improve communication between the Service and CSKT and to create an environment in which leadership over refuge management, cultural resource protection, fire management, the biology program, visitor services, and the maintenance program can be successfully transferred from the Service to CSKT.





# CHAPTER 4

## Public Involvement

The following section summarizes how we consulted with the public at the start of this environmental analysis process, including outreach methods and a summary of the comments received both internally and from the public during the 30-day comment period.

### 4.1 Public Scoping

We released the draft AFA to the public in May 2012 with a notice of intent to prepare an EA to evaluate the proposal and develop alternatives to the draft AFA. The Region 6 External Affairs Office in Denver, Colorado, sent the notice to media outlets throughout Montana.

Starting on May 15, 2012, the public had 30 days to review the draft AFA, provide comments, and give us other options to consider. All comments had to be received or postmarked by June 15, 2012. We received 16 comments and gave them to CSKT for their consideration.

On August 22, 2012, CSKT gave us a response to the public scoping comments along with a summary of recommendations for completing the environmental analysis and the supporting documents. We reviewed and considered all comments from the public, CSKT, and Service staff during development of this EA.

### 4.2 Issues Identified During Scoping

Below are descriptions of the substantive issues that we identified during the 30-day public scoping process for the draft AFA. We considered these issues in developing alternatives.

#### **LACK OF POLICY ON ANNUAL FUNDING AGREEMENTS**

Several commenters stated that, while there are Federal regulations for negotiating AFAs (25 Code of Federal Regulations 1000, subpart F), the regulations mostly cover the general financial aspects of AFAs. It was noted that these regulations do not address the applicability of AFAs to specific Federal programs or clarify the acceptable range of administrative control by the negotiating parties.

#### **INHERENTLY FEDERAL FUNCTIONS AFFECTING THE INTER-GOVERNMENTAL PERSONNEL ACT MOBILITY PROGRAM**

Several commenters suggested that certain management activities are inherently Federal functions and would affect how we and CSKT direct the day-to-day activities of employees under the Mobility Program of the IPA (USHR 1970b).

## **COMMENTS RECEIVED FROM THE PUBLIC AND FOUND TO BE OUTSIDE THE SCOPE OF THE PLAN**

Some issues raised during public scoping were found to be outside the scope of the plan because they conflict with existing policy, the Service's or the Refuge System's missions and purposes, the best available science, or with other information.

### ***Lack of Comprehensive Conservation Planning***

Several commenters noted that we have not yet developed a comprehensive conservation plan for the refuge complex, a requirement for each unit of the Refuge System. Policy, however, describes conservation planning as being entirely different from AFAs. Because AFAs are agreements of 5 years or less, we would not discuss this AFA in the comprehensive conservation plan, which is a 15-year planning document. In addition, the Service has been in the process of conducting various preplanning activities (e.g. collecting information, conducting studies) in preparation for the start of the CCP process following the completion of this EA project.

### ***Impacts to Federal Employees***

Several commenters raised concerns about how a change in management might affect staffing levels and the treatment of Federal employees. While we give our employees careful consideration when crafting management actions, evaluating consequences to our staff falls outside the scope of NEPA. Furthermore, future fluctuations in staffing cannot be determined or assumed.

### ***Collaboration Challenges and Disruptions to Program Control***

Two commenters questioned how disputes might be effectively settled through our collaboration with CSKT and how programs would be managed and sustained during times of conflict. We already collaborate with CSKT and have policy in place that gives our refuge manager final decision-making authority for activities conducted under, and beyond, an AFA, making further evaluation of this issue unnecessary.

# CHAPTER 5

## Proposed Action and Alternatives

This chapter describes the no-action alternative along with the proposed action and the alternatives that we considered for developing a partnership with CSKT through an AFA for managing or assisting with the operations at the National Bison Range Complex:

- Alternative A—No Action
- Alternative B—Draft AFA (Proposed Action)
- Alternative C—AFA for Fire and Visitor Programs
- Alternative D—AFA Same as Alternative C Plus Incremental Addition of More CSKT Staff in All Programs
- Alternative E—AFA Same as Alternative D Plus District Programs with Combined Service and CSKT Staff in All Programs

Section 5.8 describes alternatives that we considered but eliminated from detailed study.

### 5.1 Elements Common to Alternatives Considered for Further Analysis

- An AFA would have a term of up to 5 years.
- All current permanent Federal employees of the refuge complex would be able to maintain their current Federal employment status, pay, and benefits under any future AFAs.
- The refuge manager, deputy refuge manager, and law enforcement officer would remain Federal positions.
- Any positions transferred to CSKT would include money for associated salaries and \$5,000 per full-time employee (prorated for seasonal positions) for indirect costs.
- We would convert our two term positions to permanent positions after they expire and before they are transferred to CSKT because they would otherwise expire before the end of the 5-year term of the AFA.
- We would keep most of the operating budget, excluding salaries and indirect costs associated with positions transferred to CSKT.
- The management and enforcement of the conservation easement program is not part of any proposal. This responsibility will be retained by the Service.

- CSKT staff would be required to follow all Service laws, policies, and planning documents. We would transfer construction and deferred maintenance project money to CSKT on a case-by-case basis.
- CSKT would offer no more than 5-year contracts to employees hired under an AFA. These positions would depend on the AFA continuing. A year before the termination of these contracts and the AFA, we and CSKT would agree to extend the existing AFA or renegotiate another management option.
- If an AFA were cancelled, no CSKT employee would be guaranteed continued employment with us or the Tribes.

## 5.2 Alternative A—No Action

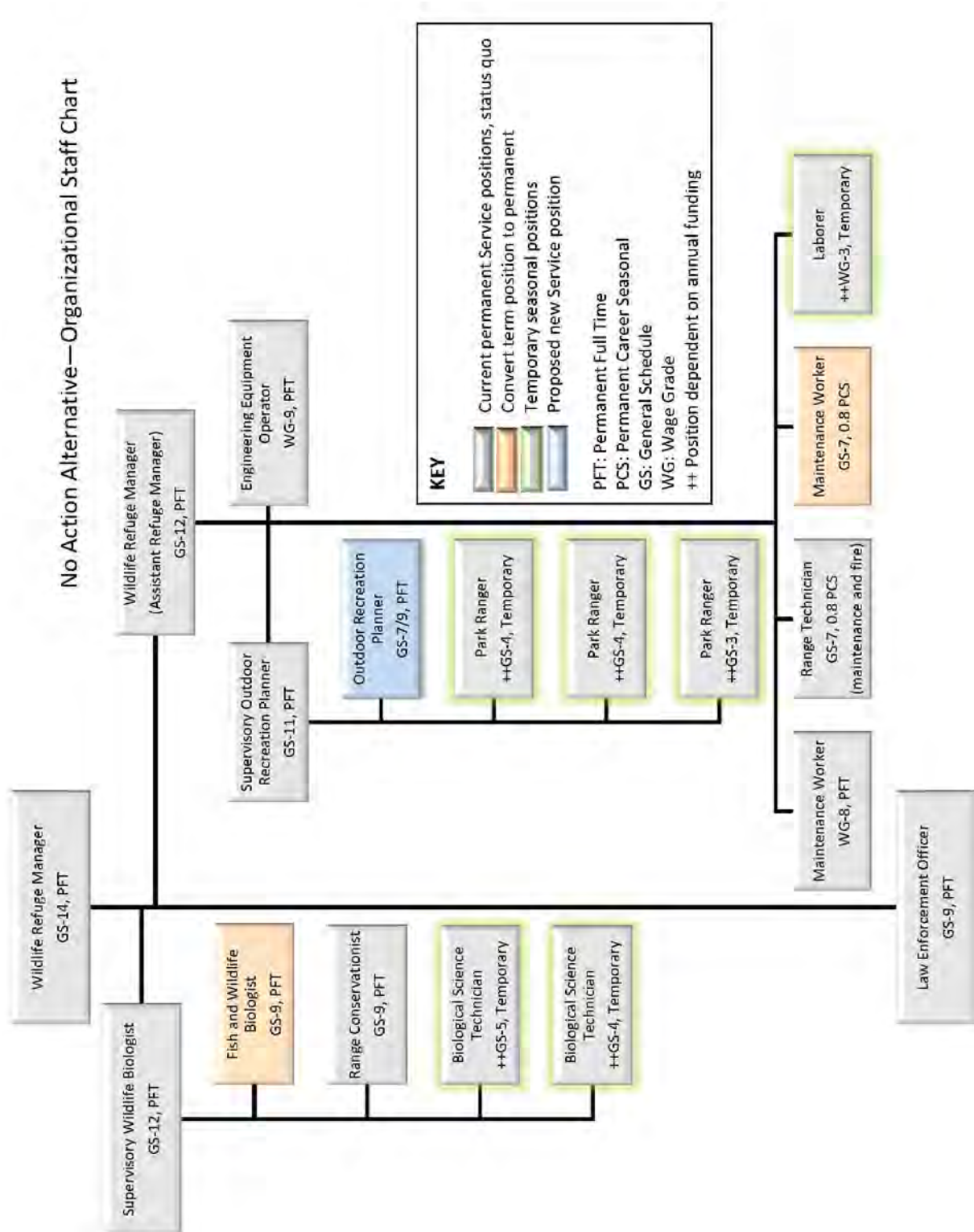
Alternative A is the no-action alternative under which we would continue to administer and carry out all programs on the refuge complex and would not pursue an AFA with CSKT. This is the alternative against which all the remaining alternatives are compared for the environmental consequences analysis in chapter 7.

### STAFF

Under the direction of the refuge manager and in accordance with approved Service plans and policies, our employees would plan, design, and conduct work on the refuge complex, augmented as needed by contractors, volunteers, and cooperators such as universities and researchers. We would continue targeted recruiting of CSKT tribal members and descendants for seasonal positions, vacated permanent positions, and the Federal Pathways Programs for students, which would give individuals the experience and opportunity to qualify for careers with us or other agencies.

We would keep 9 current permanent positions and convert back to permanent appointments the 4-year term maintenance worker (term seasonal) and fish and wildlife biologist (figure 5) as follows.

- |  |  |
|--|--|
| ▪ refuge manager   | ▪ fish and wildlife biologist (convert term back to permanent) |
| ▪ deputy refuge manager  | ▪ law enforcement officer                                      |
| ▪ supervisory wildlife biologist (program leader)                          | ▪ equipment operator (program leader)                          |
| ▪ supervisory outdoor recreation planner (program leader)—currently vacant | ▪ maintenance worker   |
| ▪ range conservationist—currently vacant                                   | ▪ maintenance worker (convert term back to permanent)          |
|  | ▪ range technician (permanent seasonal)                        |



**Figure 5. Organizational staff chart for alternative A (no action).**

We would annually recruit two to six seasonal employees (figure 5), depending on project funding. Our program leaders in the biology, visitor services, and maintenance programs would continue to recruit and supervise or lead the respective staff in their programs. The refuge manager would propose adding a GS-9 outdoor recreation planner to help develop programs and projects and to manage the visitor center for the 150,000 visitors that come to the refuge complex each year.

## **TRIBAL COORDINATION**

We would continue to coordinate with CSKT as the entity responsible for wildlife management on tribal lands within the Flathead Indian Reservation and as the owner of the lands within the Ninepipe and Pablo Refuges. Our informal and formal cooperation with CSKT would continue on issues such as invasive plant species control, trumpeter swan restoration, habitat management and native plant restoration, and grizzly bear and gray wolf management on the reservation. The Service would continue to collaborate with the CSKT Fire Management Division to plan and conduct the prescriptive fire program and responses to wildfires on the refuge complex. Service staff would continue to collaborate with CSKT on the protection of all cultural resources throughout the refuge complex in accordance with section 106 of the National Historic Preservation Act. CSKT's Tribal Historic Preservation Officer and culture committee would continue to be asked to inspect all sites proposed for disturbance.

Cooperative agreements would continue to be developed which would allow for the transfer of money to CSKT to leverage combined Service and FWRC staff knowledge and abilities. Projects of mutual interest would be developed to address resource issues and complete projects that would benefit both agencies. The Tribe would also be provided opportunities to complete deferred maintenance projects such as construction of facilities.

We would continue to coordinate with the FWRC to develop outreach and education programs that highlight the cultural and historical aspects of the landscape and wildlife found within the refuge complex. .

## **BIOLOGY PROGRAM**

We would continue to plan and manage all biological programs to support and accomplish the purposes for which each unit of the refuge complex was established. We would continue to determine annual resource management priorities, designing and monitoring short- and long-term projects to better understand the resources of the refuge complex. This information would be used to by refuge biologists and managers to address resource issues and make management decisions. Inventory and monitoring programs would continue to focus on Federal trust species and the biological resources, including vegetation and water quality and quantity that support those species. We would develop or update our long-range management plans including the habitat management plan, integrated pest management plan, and inventory and monitoring plan.

## ***Habitat Management***

The quality of the forage, including the spread of invasive plant species and the effects of other grazing animals and insects, would continue to be studied and maintained on the Bison for range health and to fulfill management objectives. Biological staff would continue to develop the annual rotational grazing program to ensure that pastures defined by interior fences are not over-utilized or grazed at the same time of year in successive years. This rotational grazing plan will be coordinated with maintenance staff who have the lead on the logistics associated with bison moves by horseback. Biology staff would continue to use place-based experience and professional judgment to evaluate how to adjust or improve the grazing program. The Service would continue to coordinate any cattle grazing management activities conducted on Ninepipe and Pablo with permittees and CSKT to ensure these activities are supporting habitat management objectives.

Refuge complex staff would continue to inventory and monitor infestations of invasive plant species and develop and apply treatment strategies using an integrated approach of chemical, biological, cultural, and mechanical methods. We would continue to coordinate with CSKT and other partners in Lake and Sanders Counties to develop a treatment strategy that identifies priorities, new invaders, and treatment areas that would have a greater effect on a larger landscape.

Water quality data would be collected periodically on all refuge complex waters including wetlands, streams, and ponds. We would coordinate water level management on the Ninepipe and Pablo Refuges and waterfowl production areas with CSKT and the Flathead Irrigation District. We would use water level management structures to optimize nesting, feeding, and brood-rearing habitat for waterfowl and other waterbirds.

To improve and restore habitat, we would use prescribed fire, haying, and prescriptive cattle grazing on the Ninepipe and Pablo Refuges and the waterfowl production areas in the Northwest Montana Wetland Management District (Lake County).

## ***Wildlife Management***

Bird surveys, including surveys of waterfowl, neotropical migrants, and resident birds, would continue to be designed and carried out by our staff or coordinated with other agencies such as FWRC. We would conduct annual big game counts, per recommendations in the Bison Range's Fenced Animal Management Plan.

We would continue to monitor and manage bison health and genetics with our wildlife health office. We would monitor the health of our bison herd, including conducting necropsies as appropriate on animals that die, to guide preventative management and appropriate response to disease. A necropsy is a routine herd health surveillance technique used to evaluate baseline disease prevalence. Our maintenance and biological staff would plan and conduct the annual bison roundup to collect genetic information and monitor herd health.

In coordination with the Service's wildlife health office, we would monitor wildlife health, including that of big game and bird species. Necropsies to monitor for diseases would be conducted on all big game animals that died naturally or were dispatched.

## **VISITOR SERVICES**

We would continue to plan and execute all visitor services programs, which would focus on the Federal trust species such as bison and migratory birds, other resident wildlife, and habitats native to the areas around the refuge complex. We would continue to work with the State and CSKT to collaborate on interpretive and environmental education programs. We would work with the Tribe's to develop or expand programs and displays designed to highlight the Tribe's cultural and historical values of the resources found on refuge complex.

We would continue to provide hunting and fishing opportunities in areas where they would not detract from the purpose for which a refuge complex unit was established, following State and reservation laws.

We would continue to develop and provide environmental education and interpretive programs to local schools and conduct outreach through local media and online resources.

## **MAINTENANCE PROGRAM**

We would continue to be responsible for all projects and programs associated with the maintenance program including the maintenance and repair of all facilities, roads, equipment, and vehicles to provide dependable, safe, and secure operating conditions for all programs. Our maintenance staff would continue to assist with habitat management projects, such as invasive species control, haying and grazing programs, habitat restoration, and water level management.

Our maintenance staff would continue to be responsible for the movement of bison for grazing management and the annual roundup activities necessary for monitoring herd health and excessing animals. Using horses, our maintenance staff would continue to lead the operations needed to move bison between grazing units, with assistance from the biological staff. The lead biologist would make the determination on the period of rotation, which is currently every 2 to 3 weeks (April through September), but could be shortened or extended based on habitat evaluations. The objective of this program would be to manage refuge habitats and provide optimal grazing opportunities. They would also continue to lead the operations needed to move bison through the corral system during the annual roundup, upgrading and maintaining this system as needed. Maintenance staff would also continue to coordinate all transportation of excess bison necessary to manage the herd. Following the annual roundup, refuge staff would continue to move the bison herd to the winter range where they would remain through March. The two highest-graded maintenance employees would continue to train other employees, including management and biology staff, on how to safely assist with these operations.

## **OPERATIONS**

We would continue to protect cultural resources according to section 106 of the National Historic Preservation Act (USHR 1966a) with the help of the State and Tribal Historic Preservation Officers. The Service and Tribal cultural resources and archeological experts would continue to inspect all sites proposed for disturbance.

The Tribes would continue to conduct initial attack operations for all wildfires on the refuge complex, and we would coordinate all prescribed fire activities with CSKT.



The refuge complex staff would continue to coordinate projects for construction and deferred maintenance. The refuge manager would approve all associated design, engineering, and construction plans, specifications, and drawings. This would include getting the necessary approvals from our regional engineer.

Our program leaders and their staff would plan and prepare all long-range management plans for the biology and visitor services programs, including the 15-year comprehensive conservation plan and supporting plans for habitat, integrated pest, fire, and wildlife management. We would develop these documents with the full involvement of various partners including tribes and the State. These documents would be reviewed and approved by the Refuge Supervisor and any supporting NEPA documentation would be reviewed and signed by the Region 6 Regional Director.

## **5.3 Alternative B—Draft AFA (Proposed Action)**

We would execute and carry out the draft AFA negotiated with CSKT during 2011–2012 (appendix A). CSKT would be responsible for designing, implementing, and managing refuge programs, including biology, fire, maintenance, and visitor services.

### **STAFF**

Three of the 11 current Service employees—refuge manager, deputy refuge manager, law enforcement officer—would remain employed by us, be stationed at the refuge complex, and would not be requested to sign an IPA. Remaining staff would be voluntarily assigned or transferred to CSKT as described below or transferred to other positions. Figure 6 displays the Service and CSKT employees that would manage and carry out all programs for the refuge complex under this alternative. As IPA Service staff transfer, resign, or retire, their positions and funding will be given to CSKT to recruit their own employees for whom they would supervise and support.

Initially, we would keep the environmental education program, management of the cooperating association bookstore, and volunteer selection and coordination until the current supervisory outdoor recreation planner transferred or retired. At that time, we would transfer the position to CSKT for recruitment and transfer the remaining visitor services and volunteer program to CSKT.

Five permanent employees—lead wildlife biologist, range conservationist, equipment operator, maintenance worker, and range (fire) technician—would remain Federal employees. However, we would ask these to sign IPAs assigning them to work for CSKT. This would allow the Tribes to manage refuge programs, including supervising all program leaders and support staff and recruiting and supervising volunteers. IPA assignments are voluntary, and must be agreed to by our employees. Our employees assigned to CSKT under IPAs would have no change to their Federal pay, benefits, or other entitlements, rights, and privileges. If our five affected employees did not accept the options available to them through this AFA (appendix A, section 13.F), we would transfer these positions to CSKT for recruitment of their own employees (appendix A, section 13.F.4).

Two occupied term employee positions—a maintenance worker and a fish and wildlife biologist—would not be renewed.

Alternative B (proposed action), Organizational Staff Chart

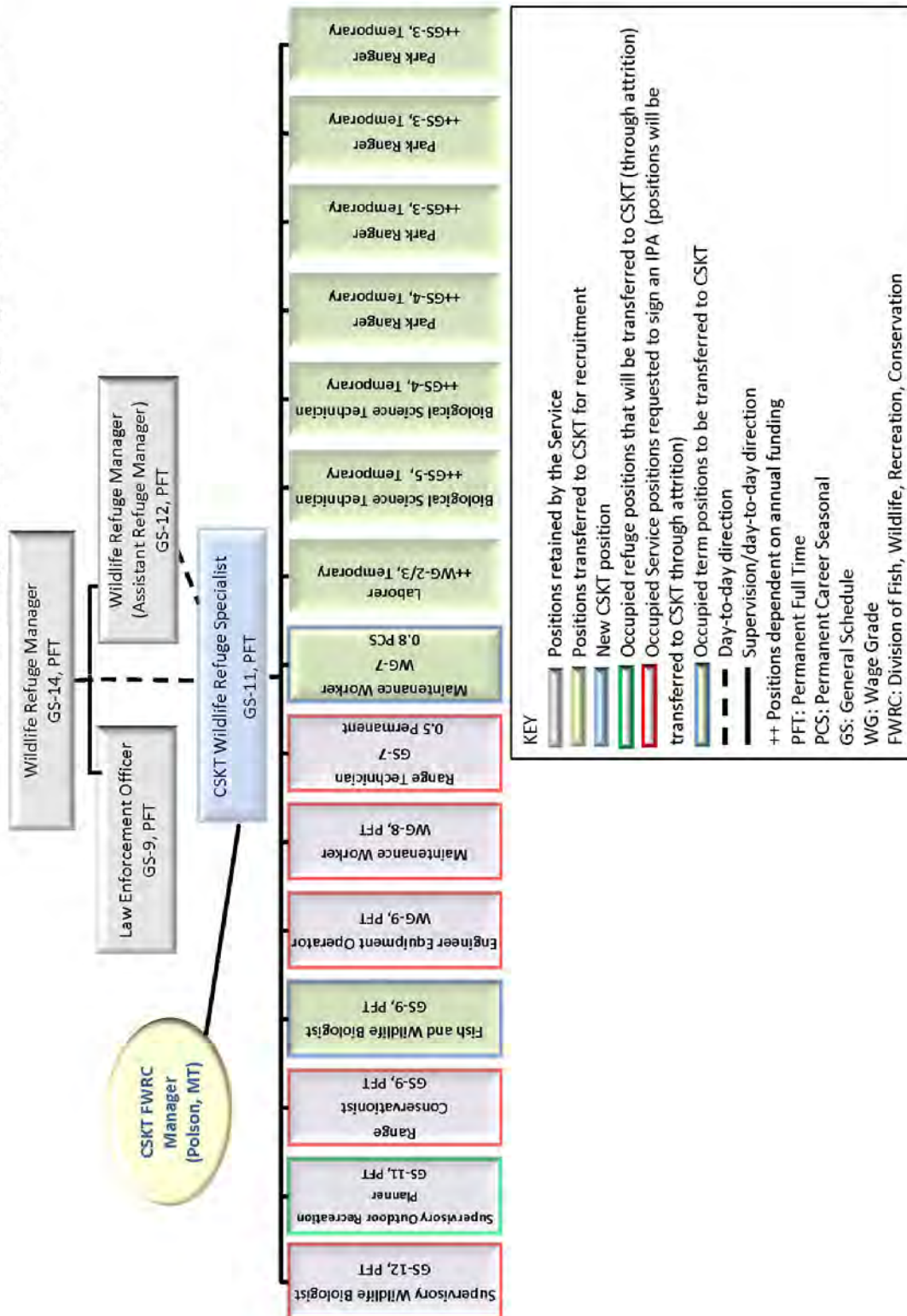


Figure 6. Organizational staff chart for alternative B, the draft AFA (proposed action).

We would give CSKT money to recruit two to six temporary seasonal employees to support all refuge complex programs during primarily spring through fall and to recruit a GS-11 (equivalent) wildlife refuge specialist. The individual occupying this new position would be supervised by the manager of FWRC, but would receive day-to-day direction from either our refuge manager or deputy refuge manager. The wildlife refuge specialist would supervise all CSKT and IPA Service staff (figure 6), directing the day-to-day work of employees and volunteers in the biology, fire, maintenance, and visitor services programs (appendix A, section 7.C). In the absence of the CSKT wildlife refuge specialist, a CSKT-designated official would provide day-to-day direction to CSKT and IPA employees and volunteers. CSKT would provide personnel support to their employees including payroll, leave, benefits, and other human resources.

## **TRIBAL COORDINATION**

CSKT staff would be responsible for designing, implementing, and managing the biology, maintenance, and visitor services programs for the refuge complex under the direction and supervision of a CSKT GS-11-equivalent wildlife refuge specialist. This CSKT manager would interact with the Service's refuge manager and deputy refuge manager to receive day-to-day direction, determine priorities, receive guidance on procedures and policies, and address issues. This CSKT manager and the manager of the FWRC would also serve on a refuge leadership team, as described in Operations below. CSKT staff would be responsible for coordinating with other partners including the State, counties, and private landowners to distribute information about refuge programs and develop partnerships to achieve landscape level planning activities. The Tribes would continue to conduct initial attack operations for all wildfires on the refuge complex and would plan and coordinate all fire management activities, including prescribed fire used to treat invasive plants and to restore and enhance habitat.

On agreement between CSKT and us, the AFA may be amended to include construction or deferred maintenance money for work to be performed by the Tribes. The Tribes would not begin any construction covered by this AFA without the refuge manager's previous written approval of all associated design, engineering, and construction plans, specifications, and drawings. The refuge manager would be responsible for obtaining necessary approvals from our regional engineer. We would oversee each project, and CSKT would be responsible for following established guidelines, design specifications, and relevant laws including helping with any analysis required under the National Environmental Policy Act. The Tribes would return to us any money not used for a project.

## **BIOLOGY PROGRAM**

CSKT would be responsible for designing, implementing, and managing the biology program as described in the affected program and in alternative A, including the development of all long-range management plans. All refuge plans would require review and concurrence by the refuge manager.

## **VISITOR SERVICES**

CSKT would be responsible for designing, implementing, and managing the visitor services program as described for alternative A, including developing a visitor services plan for the refuge complex with concurrence from the refuge manager.

## **MAINTENANCE PROGRAM**

CSKT would be responsible for designing, implementing, and managing the maintenance program as described for alternative A, including all activities related to the movement of bison between grazing units and at the annual roundup under the direction of the refuge manager.

## **OPERATIONS**

A refuge complex leadership team would be formed to develop annual work plans, set work priorities, address performance and conduct issues, prepare periodic status reports, and resolve disputes. The leadership team would include our refuge manager and deputy refuge manager, the CSKT wildlife refuge specialist, and the manager of FWRC. The team would meet as needed to discuss management plans and address any issues. The leadership team would develop and use consensus decision making in all of its work; however, if the team were unable to reach consensus on any matter, the decision of the refuge manager would prevail. The Manager of the CSKT Division of FWRC can invoke the dispute resolution process if the Refuge Manager has decided not to accept a CSKT recommendation and, on request, has failed to provide a reasonable explanation for the decision, and the CSKT believes the refuge manager's decision is arbitrary or capricious" (appendix A, section 7.D.5).

## **5.4 Alternative C—AFA for Fire and Visitor Programs**

We would negotiate an AFA with CSKT, different from the draft AFA in alternative B, in which the partnership would include the Tribes conducting full fire management and collaborating on all aspects of the visitor services program. All work of the refuge complex would be accomplished under the supervision, direction, and leadership of our refuge manager or deputy refuge manager and our program leaders in accordance with approved Service plans and policies.

## **STAFF**

Besides keeping our refuge manager, deputy refuge manager, and law enforcement officer, we would retain the following staff (figure 7):

- eight permanent positions
- three temporary, seasonal positions (biology and maintenance)
- two term positions converted back to permanent positions

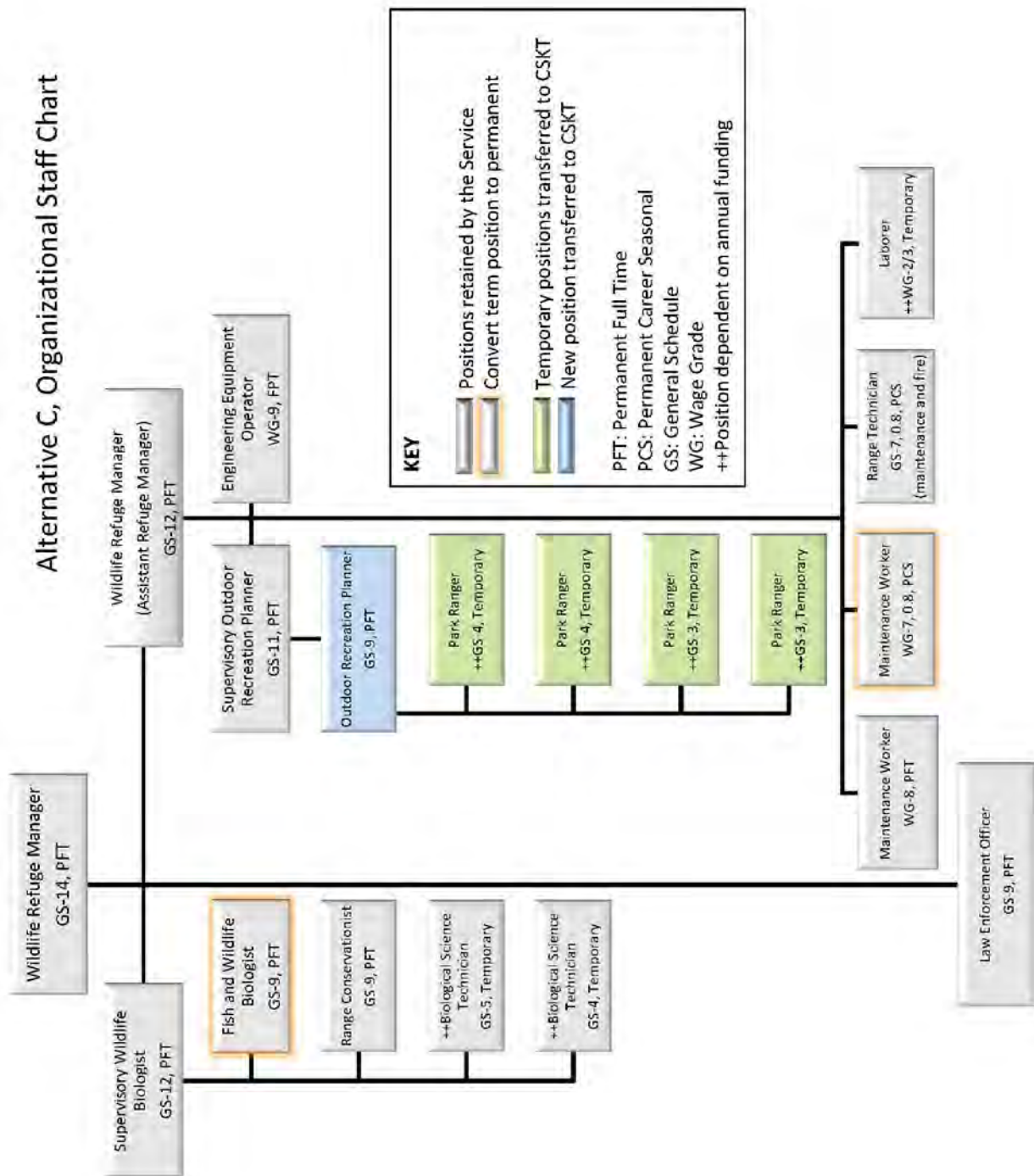


Figure 7. Organizational staff chart for alternative C, AFA for fire and visitor programs.

CSKT Fire Management Division staff would implement the fire management program. The Division (under the Tribes' Forestry Department) is responsible for wildland fire management including fire preparedness, wildfire suppression, and application of prescribed fire on the Flathead Indian Reservation. The Tribes' fire program is fully integrated into the National Interagency Fire Management Program. CSKT fire management employees are fully qualified under the National Interagency Fire Qualification System.

We would give CSKT money to recruit a GS-9 (equivalent) outdoor recreation planner and up to 4 seasonal CSKT employees for visitor services, depending on annual project funding (figure 7). The CSKT outdoor recreation planner would supervise these seasonal employees. CSKT would provide personnel support to their employees, including payroll, leave, benefits, and other human resources.

## **TRIBAL COORDINATION**

Our coordination with the Tribes would be the same as described for alternative A, except that the Tribes would have more involvement in planning, designing, and implementing the visitor services and fire management programs, as described below.

## **BIOLOGY PROGRAM**

The program would be the same as described for alternative A.

## **VISITOR SERVICES**

The CSKT-recruited outdoor recreation planner would work alongside our supervisory outdoor recreation planner. They would collaborate on interpretive and education programs and displays and on providing visitors with information on the resources, management, history, and cultural significance of the refuge complex. The CSKT outdoor recreation planner would supervise the Tribes' seasonal visitor services staff responsible for orienting and interacting with refuge visitors, collecting fees for the Red Sleep Mountain Drive, operating the cooperating association sales outlet, and interpreting exhibits in the visitor center. These seasonal employees would also help develop interpretive programs and take part in public programs and events such as the annual bison roundup.

## **MAINTENANCE PROGRAM**

The program would be the same as described for alternative A.

## **OPERATIONS**

Actions for cultural resource protection and plan development and implementation would be the same as alternative A.

The Tribes would continue to conduct initial attack operations for all wildfires on the refuge complex, and we would coordinate all prescribed fire activities with CSKT. CSKT fire staff would continue to respond to all wildfires on the reservation, including the refuge complex. The AFA would enable, under the direction and oversight of the refuge complex biological program, the expansion of

this partnership into more habitat management programs by applying prescribed fire to enhance grasslands and control invasive plant species. As under alternative B, the AFA may be amended to include construction or deferred maintenance money for work to be performed by the Tribes.

## 5.5 Alternative D—AFA Same as Alternative C plus

In addition to the fire operations and visitor services programs as described in alternative C, CSKT would receive funding to recruit up to three more seasonal employees (in addition to the four seasonal visitor services staff). These added CSKT employees would support the biology and maintenance programs. Our leaders would train all CSKT staff in all programs. The long-term objective would be to transfer more of the permanent positions to CSKT through attrition and negotiation. All work on the refuge complex would be supervised and directed by our refuge manager or deputy refuge manager and our program leaders, in accordance with approved Service plans and policies.

### STAFF

CSKT would be provided with more permanent positions over time as our current employees transferred or retired and CSKT-recruited seasonal employees gained the experience and knowledge necessary to fully perform the activities of permanent positions.

In addition to the refuge manager, deputy refuge manager, and law enforcement officer, the following staff would remain Service employees (figure 8):

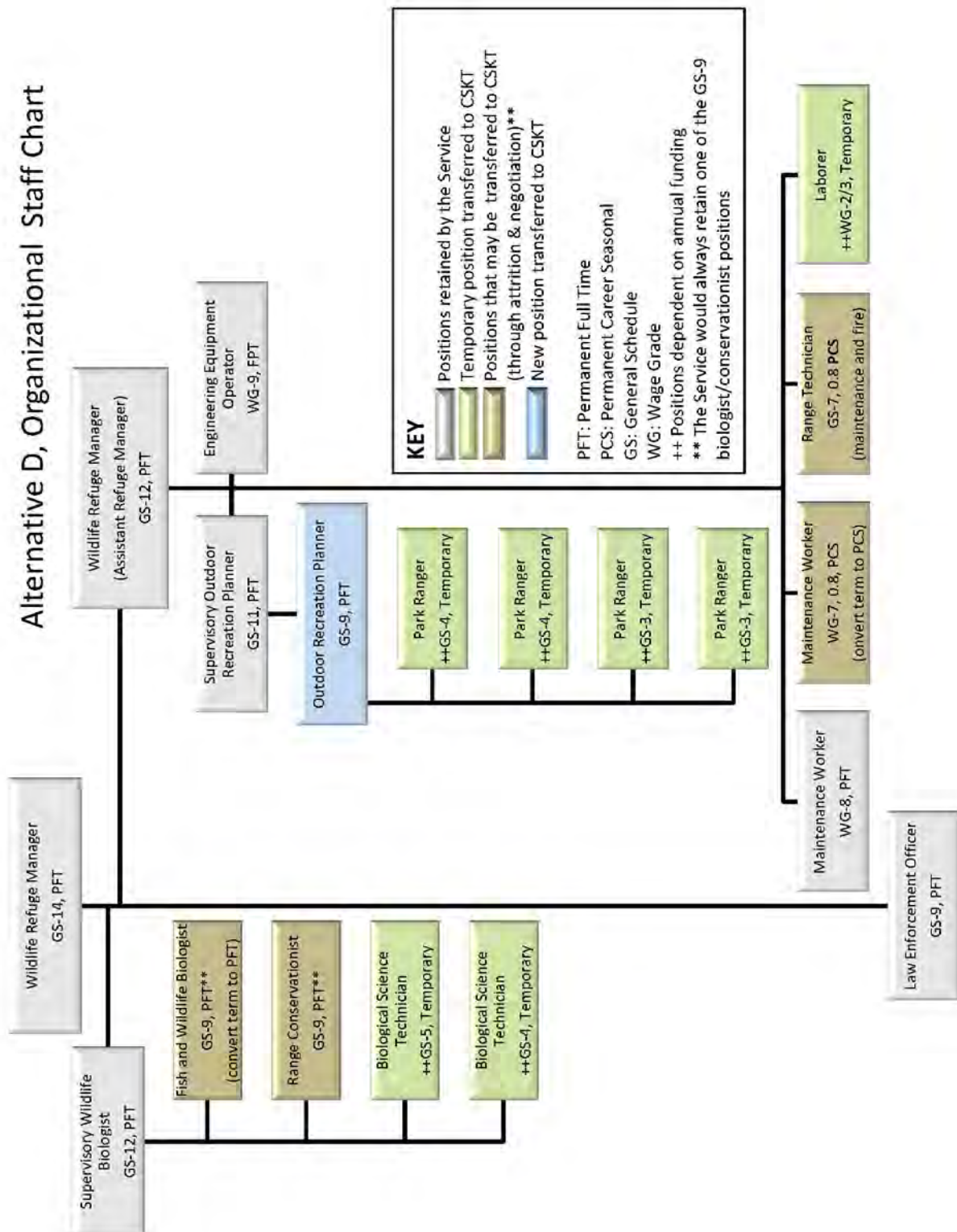
- program leader or highest graded position in the biology program
- program leader or highest graded position in the maintenance program
- program leader or highest graded position in the visitor services program
- GS-9 fish and wildlife biologist or range conservationist
- second-highest graded maintenance worker (currently Wage Grade [WG]–8)

These eight positions could continue refuge programs and train new employees, including new CSKT staff, regardless of the status of an AFA. The current term positions (fish and wildlife biologist and maintenance worker) would be converted back to permanent. Three positions could transfer to CSKT (after vacated through transfer, retirement, or resignation) (figure 8):

- GS–9 fish and wildlife biologist or range conservationist (we would retain the other position)
- GS–7 range technician
- GS–7 maintenance worker



## Alternative D, Organizational Staff Chart



**Figure 8. Organizational staff chart for alternative D, AFA same as alternative C with incremental addition of more CSKT staff.**



As these employees transferred or retired, our refuge manager would renegotiate with CSKT to decide whether or not to transfer these permanent positions to CSKT. Our employees would work closely with the Tribes' seasonal staff to provide the training and experience needed to support the operations and programs of the refuge complex and to help them compete for permanent positions with us or CSKT.

As in alternative C, we would give the Tribes money to recruit a GS-9 (equivalent) outdoor recreation planner and up to four seasonal CSKT employees for visitor services (figure 8), depending on annual project funding. The CSKT outdoor recreation planner would supervise these seasonal employees. Besides the GS-9 outdoor recreation planner, initially, most of the positions provided to CSKT would be temporary and seasonal (two to seven positions depending on annual funding). These seasonal positions would be in the biology, maintenance, and visitor services programs. Our refuge manager or the three program leaders would work collaboratively with CSKT to review applications and make selections, working with both personnel and human resources offices.

## **TRIBAL COORDINATION**

In addition to the coordination described in alternative C for the visitor services and fire management programs, the Service would provide funding to CSKT to recruit additional staff that would assist with designing and implementing the biology and maintenance programs as well. Through attrition and negotiation, CSKT may be provided additional positions that would expand their involvement in the design and implementation of refuge programs.

## **BIOLOGY PROGRAM**

The program would be the same as described for alternative A, except CSKT would recruit up to two seasonal biological science technicians who would fully participate in developing and implementing all biological projects and programs. CSKT may be provided an additional biologist or range conservationist position that would expand their involvement in the design and implementation of the biology program.

## **VISITOR SERVICES**

The program would be the same as described for alternative C.

## **MAINTENANCE PROGRAM**

The program would be the same as described for alternative A, except CSKT would recruit a seasonal laborer position that would assist with maintenance operations. CSKT may be provided an additional maintenance and range technician position that would expand their involvement in the design and implementation of the maintenance program. Our maintenance employees would continue to train and lead all refuge complex staff on how to safely use horses to move bison for grazing management and annual roundup activities. They would also train and lead Service and CSKT maintenance employees in all operations needed to maintain and repair all facilities and equipment, in particular, the extensive fencing system used to contain and manage the bison herd.

## OPERATIONS

These actions would be the same as alternative A: cultural resource protection and plan development and implementation.

CSKT would provide personnel support to their employees including payroll, leave, benefits, and other human resources. Although CSKT would administer performance management and employee discipline for its employees in accordance with its personnel policies, our program leaders would direct the day-to-day activities of the assigned CSKT employees, except for the four seasonal visitor services staff. The CSKT outdoor recreation planner (under the direction of our supervisory outdoor recreation planner) would supervise these seasonal visitor services staff. The refuge manager or deputy refuge manager would work with the FWRC manager to address performance and conduct issues.

As described under alternative B, the AFA may be amended to include construction or deferred maintenance money for work to be performed by the Tribes.

### 5.6 Alternative E—AFA Same as Alternative D plus

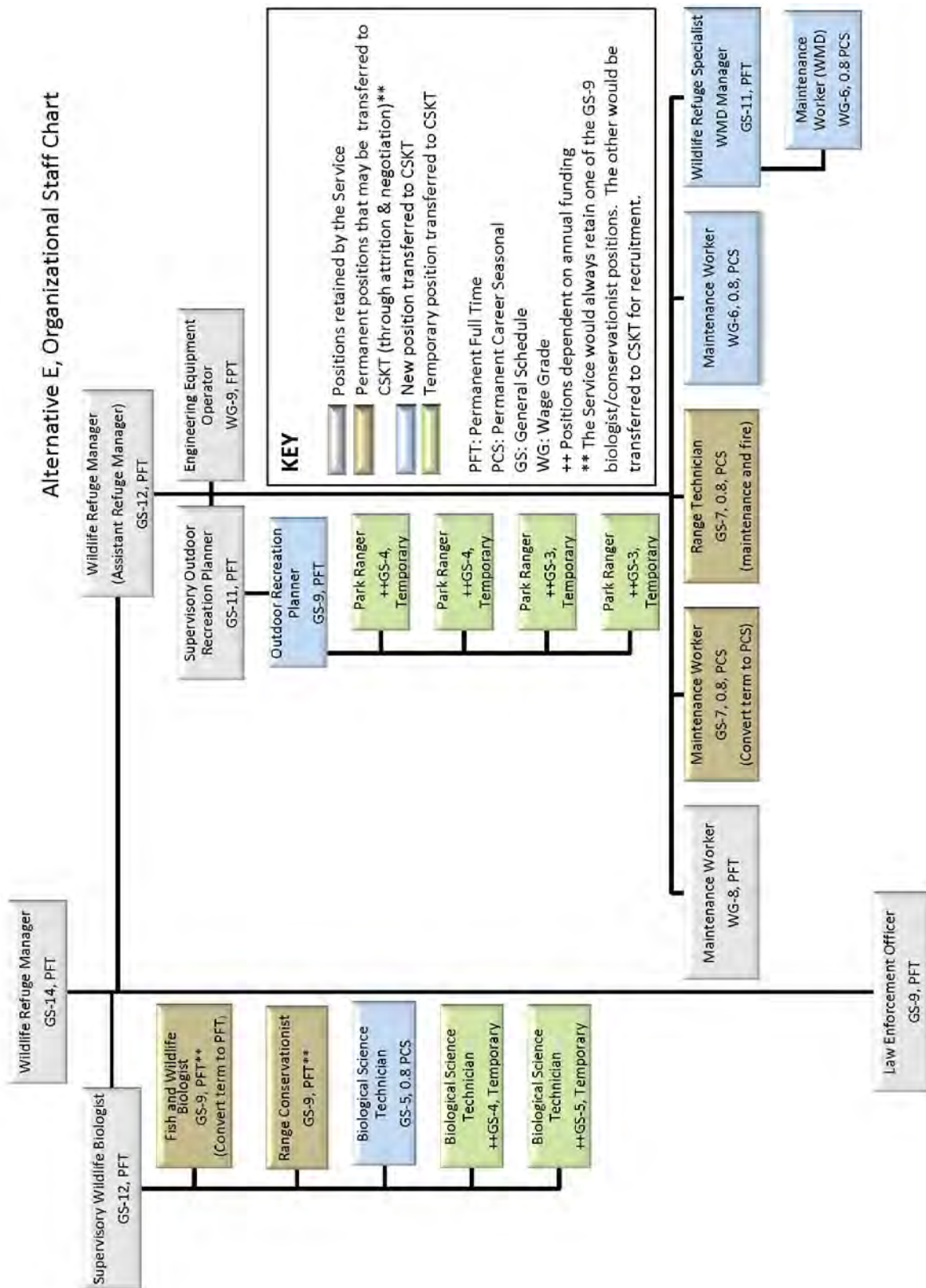
In addition to transferring fire and visitor services operations to CSKT, as described in alternatives C and D, this AFA would add more CSKT staff positions, expanding CSKT's involvement in management activities while adding to our management capabilities. CSKT-recruited staff would be involved in all operations on the refuge complex, particularly the management of the district (the Ninepipe and Pablo Refuges and the nine waterfowl production areas). All work of the refuge complex would be accomplished under the direction, leadership, and day-to-day direction of our refuge manager or deputy refuge manager and our program leaders in accordance with approved Service plans and policies.

## STAFF

As described in alternatives C and D, the AFA would include CSKT helping with the fire management and visitor services programs and give the Tribes a new GS-9 (equivalent) outdoor recreation planner.

Although we currently coordinate some activities with CSKT for the Ninepipe and Pablo Refuges and nine waterfowl production areas in the district, historically we have managed these units exclusively with Service money and staff. Under this AFA, we would give the Tribes money to recruit two new employees (figure 9) to help with the management of the district; the manager of FWRC would supervise these employees:

- GS-11 (equivalent) wildlife refuge specialist (wetland management district manager)
- WG-6 (equivalent) maintenance worker (permanent seasonal)



**Figure 9. Organizational staff chart for alternative E, AFA same as alternative D plus district programs with combined Service and CSKT staff in all programs.**

Besides the outdoor recreation planner and two positions to manage the district, we would give the Tribes money to recruit more employees to help with all refuge complex programs. Our program leaders would direct the day-to-day activities of the following CSKT employees:

- WG-6 (equivalent) maintenance worker (permanent seasonal)
- GS-5 (equivalent) biological science technician (permanent seasonal)
- GS-9 (equivalent) range conservationist to help with developing and implementing biological projects throughout the refuge complex
- an average of two to six temporary employees (depending on annual project funding) in the biology, visitor services, and maintenance programs

Our refuge manager and program leaders would be involved in the recruitment and selection of all CSKT staff, working collaboratively with both agencies' personnel or human resources offices.

Initially, we would keep nine employees, working closely with the CSKT staff to provide the training and experience needed to support the operations and programs of the refuge complex and safely manage our bison herd. Through negotiation after transfer, retirement, or resignation of our in-place employees, we may transfer up to three more positions to the Tribes (figure 9):

- a GS-9 (equivalent) fish and wildlife biologist or range conservationist
- a WG-7 (equivalent) maintenance worker
- a GS-7 (equivalent) range technician

If all positions were transferred, we would keep 7 permanent positions, and CSKT would have 9 permanent positions or up to 15 positions, including temporary staff (figure 9).

## **TRIBAL COORDINATION**

Our coordination with the Tribes would be the same as described for alternative D, except that the Tribes would have more involvement in all of the programs throughout the refuge complex. In addition, CSKT-recruited staff would be responsible for managing the Ninepipe and Pablo Refuges and the nine waterfowl production areas in the district. All work of the refuge complex would be accomplished under the direction and leadership of our refuge manager or deputy refuge manager and our program leaders in accordance with approved Service plans and policies.

## **BIOLOGY PROGRAM**

The program would be the same as described for alternative A. In addition, under the direction of the refuge manager, the new CSKT wildlife refuge specialist and maintenance worker would conduct maintenance and habitat management activities for the district, such as maintaining public use areas, water level manipulation, habitat restoration, and invasive plant species management. They would also

coordinate with current and future permittees for prescriptive activities such as grazing and haying on the Ninepipe and Pablo Refuges and the waterfowl production areas. Although these tribal employees would be assigned to work on the Ninepipe and Pablo Refuges and the waterfowl production areas, they would also take part in a variety of activities on the Bison Range, including bison management activities. CSKT would also recruit a GS–9 permanent range conservationist, a GS–5 permanent biological science technician, and up to two seasonal biological staff. These CSKT employees would assist with the design and implementation of all biological projects and programs on the refuge complex. Our lead biologist would direct the day-to-day activities of both the Service and CSKT biology staff.

## **VISITOR SERVICES**

The program would be the same as described for alternative C.

## **MAINTENANCE PROGRAM**

The program would be the same as described for alternative A, except CSKT would recruit two permanent employees and one temporary employee to support all maintenance projects and programs throughout the refuge complex. Our maintenance employees would train and lead all staff on how to safely use horses to move bison for grazing management and annual roundup activities as well as how to safely maintain and repair facilities and equipment.

## **OPERATIONS**

Operations would be the same as described for alternative D, except for more tribal involvement in managing the district and the refuge complex. CSKT would provide personnel support to their employees including payroll, leave, benefits, and other human resources. Although CSKT would administer performance management and employee discipline for its employees in accordance with its personnel policies, our program leaders would direct the day-to-day activities of the assigned CSKT employees, except for the new district staff, who would be supervised and directed by the FWRC manager. CSKT staff would be required to follow all Service laws, policies, planning documents, and management objectives.

We would continue to help the Tribes manage the district units, providing equipment and staff time as approved by our refuge manager. We would also provide operating funds for the habitat management and maintenance programs on district units.

CSKT-recruited maintenance and biology staff would be involved in all habitat, wildlife, and maintenance programs on the refuge complex, including the management of the bison herd.

## 5.7 Alternatives Considered but Eliminated from

The following is a summary of the alternatives that we considered for forming a long-term partnership with CSKT but eliminated from detailed study for the reasons described below.

### **HIRING TRIBAL MEMBERS AS SERVICE EMPLOYEES**

For this alternative, we would continue to diversify the refuge complex workforce through expanded outreach and targeted recruiting of highly qualified CSKT members to fill vacant positions through open competition. CSKT involvement would be through individual tribal members working as our employees.

We would use authorities such as the Federal Pathways Programs for students to develop, train, and hire CSKT members and other Native Americans enrolled at Salish Kootenai College in Pablo, Montana, and other accredited institutions to fill professional, technical, administrative, and skilled trade positions at the refuge complex. Many CSKT members are veterans of the U.S. Armed Forces, and a variety of veterans' hiring authorities would also be available to recruit new refuge employees.

This alternative would help us in achieving workforce diversity and would meet the purpose and needs of this action in delivering the mission of the Refuge System and fulfilling the purposes of the refuge complex. It would also provide opportunities for additional Tribal influence and contributions to refuge programs important to CSKT. Although this alternative could expand and strengthen a strong partnership between CSKT and us, it would not support the purpose and need related to self-governance for CSKT as stated in chapter 1. AFAs are the only avenue identified for implementing the Self-Governance Act with non-BIA agencies. We eliminated this alternative from further analysis.

### **COOPERATING THROUGH A PARTNERSHIP AGREEMENT**

The Secretary of the Interior has many broad cooperative authorities in the management of fish and wildlife and their habitat. The Fish and Wildlife Act of 1956 provides the Secretary broad authority to "take such steps as may be required for the development, advancement, management, conservation, and protection of fish and wildlife resources." In addition, conservation partnerships with Tribes are allowed by Executive Order 12996 of March 25, 1996. For this alternative, we would use these authorities to transfer money to CSKT, which would provide tribal employees to perform a variety of work at the refuge complex as negotiated and set forth in a cooperative partnership agreement.

This alternative would achieve the purpose and need of expanding and strengthening a partnership between CSKT and us, furthering the mission of the Refuge System, and fulfilling the purposes of the refuge complex. This alternative would also meet our Native American Policy (FWS 1994), which lists a cooperative agreement as a viable option for supporting self-governance. However, this alternative would not meet the goals of the Self-Governance Act and its implementing regulations at 25 Code of Federal Regulations Part 1000, which call for the use of AFAs with self-governing tribes whenever possible. We eliminated this alternative from further analysis.

## **ASSIGNING TRIBAL EMPLOYEES TO THE SERVICE**

This alternative would involve the assignment of qualified CSKT employees to fill all seasonal positions and any permanent positions at the refuge complex that are not currently encumbered by our permanent or term employees with IPAs. The IPA Mobility Program allows for the temporary assignment of employees from a tribal government to a Federal agency. To qualify for an IPA agreement, an individual must have been employed for at least 90 days in a permanent position with the tribal government (U.S. Office of Personnel Management 1997). Because CSKT would be bringing newly hired employees to these refuge complex positions, the 90-day requirement would not be met. In addition, this alternative would not support the purpose and need related to self-governance for CSKT as stated in chapter 1. AFAs are the only avenue identified for implementing the Self-Governance Act with non-BIA agencies. We eliminated this alternative from further analysis.

## **INCLUDING MORE THAN THE 2008 AFA**

During government-to-government negotiations for the proposed action (alternative B), we and CSKT revisited the previous 2008 AFA and discussed transferring the remaining staff positions to CSKT staff. However, we agreed that the refuge manager, deputy refuge manager, and law enforcement officer, would remain with the Service. We also discussed the idea of CSKT handling other tasks, such as operational budgets (for utilities, maintenance, and biology), but these were not included in the negotiated AFA due to operational challenges in the previous AFA (section 3.6). Since both parties agreed not to add these to future AFAs, we eliminated this alternative from further analysis.





# CHAPTER 6

## Affected Environment

This chapter describes the characteristics and resources of the refuge complex considered in this analysis:

- 6.1 Physical environment
- 6.2 Habitat management
- 6.3 Wildlife management
- 6.4 Research, inventory, and monitoring
- 6.5 Threatened and endangered species
- 6.6 Special management areas
- 6.7 Visitor services
- 6.8 Cultural resources
- 6.9 Operations
- 6.10 Socioeconomics

The refuge complex comprises 4 national wildlife refuges, 14 waterfowl production areas, and conservation easements in Lake, Sanders, and Flathead Counties of northwestern Montana. Three of these refuges and nine of the waterfowl production areas are entirely within the exterior boundaries of the Flathead Indian Reservation (figure 1 in chapter 1). The descriptions in this chapter cover these 12 units (table 1)—the only areas of the refuge complex subject to the considered alternatives. The management and enforcement of the conservation easement program is not part of any proposal. This responsibility will be retained by the Service.

**Table 1. Management units of the National Bison Range Complex, Montana.**

<i>Unit name</i>	<i>Unit type</i>	<i>Acres</i>	<i>Ownership</i>	<i>County</i>
National Bison Range	National wildlife refuge	18,800	Service	Lake, Sanders
Ninepipe	National wildlife refuge	2,062	CSKT	Lake
Pablo	National wildlife refuge	2,474	CSKT	Lake
Anderson	Waterfowl production area	163	Service	Lake
Crow	Waterfowl production area	1,549	Service	Lake
Duck Haven	Waterfowl production area	719	Service	Lake
Ereaux	Waterfowl production area	28	Service	Lake
Herak	Waterfowl production area	80	Service	Lake

**Table 1. Management units of the National Bison Range Complex, Montana.**

<i>Unit name</i>	<i>Unit type</i>	<i>Acres</i>	<i>Ownership</i>	<i>County</i>
Johnson	Waterfowl production area	80	Service	Lake
Kickinghorse	Waterfowl production area	169	Service	Lake
Montgomery	Waterfowl production area	80	Service	Lake
Sandsmark	Waterfowl production area	400	Service	Lake
Total acreage 26,604				

## 6.1 Physical Environment

This section describes the topography, soils, air quality, climate, and hydrology of the affected refuge complex units.

### TOPOGRAPHY

The Bison Range is much more rugged than the rest of the refuge complex with elevations ranging from 2,530 to 4,892 feet. Elevation within the approved boundary of the Ninepipe Refuge ranges from 2,790 feet at the southern boundary to 2,937 feet in the northeastern corner. Elevation of the Pablo Refuge is 3,215 feet.

### SOILS

The glacial history of the region has had a pronounced influence on the soils and landforms of the Flathead Valley. Glacier advance and retreat, Glacial Lake Missoula, and mountain runoff have deposited extensive, loose valley sediments, lakebed silts, and assorted glacial debris up to and including boulder-sized, glacially transported rocks that originated in British Columbia.

At the Bison Range, topsoils are generally shallow and mostly underlain with rock that is exposed in many areas, forming ledges, outcroppings, and talus slopes. Soils over most of the refuge complex were developed from pre-Cambrian quartzite and argillite bedrock. These well-drained soils range from shallow to moderately deep. They have a loamy surface horizon with near neutral pH (measure of acidity and alkalinity), high organic content (remains of once-living plants and animals), and varying amounts of parent material fragments. Except for surface soils, lower soil horizons have a loamy texture interspersed with rock fragments. Water infiltration rates are generally high and soil erosion is minimal.

The earliest known soil survey of the lower Flathead Valley was completed during the late 1920s (DeYoung and Roberts 1929). Soils to the south, west, and north of Pablo Reservoir were classified as Polson silt loam; Hyrum sandy loam was located to the east. A large area of different phases of Post silty clay loam surrounded Ninepipe Reservoir. Areas of Crow gravelly silt loam, Crow stoney loam, McDonald gravelly loam, and undifferentiated alluvium occurred to the east of silt loam and silty clay loam. Soil mapping, started in 1995, shows similar soil type patterns around the reservoirs, but has

more detailed mapping with additional soil classifications (Natural Resources Conservation Service 2008, 2012). Compared to the 1929 soil map, sands to the east of Pablo Reservoir have been reclassified as McCollum fine sandy loam and Sacheen loamy fine sand. Polson silt loam to the west of Pablo Reservoir was mapped in complexes with Truscreek silt loam. Kerr loam and Truscreek silt loam also occur to the west of Pablo Reservoir.

## AIR QUALITY

Air quality in the refuge complex is protected under several provisions of the Clean Air Act, including the National Ambient Air Quality Standards and the Prevention of Significant Deterioration program. One of the goals of the Prevention of Significant Deterioration program is to preserve, protect, and enhance air quality in areas of special natural, recreational, scenic, or historic resources, including those of the refuge complex (Ross 1990). Only a limited amount of added air pollution—associated with moderate growth in the human population of the Mission Valley—can be allowed in the future.

The Flathead Indian Reservation was designated in 1979 as a voluntary class 1 airshed under provisions of the Clean Air Act, which confers the highest degree of protection under the act. Air quality is considered exceptionally good, with no nearby manufacturing sites or major point sources of pollution. However, the cities of Polson and Ronan in Lake County and areas of Flathead County are designated as nonattainment areas—areas that do not meet air quality standards—and are not in compliance with particulate matter, or PM<sub>10</sub> (EPA 2002).

Seasonal burning of logging slash in the mountains and stubble fields at valley ranches cause short-term, localized smoke. In drought years, there has been heavy smoke from local wildfires or delivered from distant fires by prevailing winds. Smoke from wood-burning stoves is trapped in the valley during temperature inversions that are common in winter months.

## CLIMATE

Average high temperatures in the Mission Valley range from approximately 30 °F in December and January to 90 °F in July; average low temperatures range from 18 to 50 °F. Most of the precipitation in the valley occurs during the spring and early summer, averaging more than 2 inches per month in May and June (Western Regional Climate Center 2011). Precipitation during the rest of the year averages between approximately 1 and 1.5 inches per month.

Long-term climate data—1895 to 2011—from the U.S. Historical Climatology Network is available for St. Ignatius, Montana (station number 247286), approximately 7 miles south of Ninepipe Reservoir. Long-term average precipitation for St. Ignatius, Montana, based on Menne et al. (2012) is 15.82 inches per year and shows considerable variation from year to year.

## HYDROLOGY

Mission Creek drains the north side of the Bison Range, and the Jocko River drains the south side; both are tributaries to the Flathead River. More than 80 natural springs occur on the Bison Range, and about 40 of those have been developed into watering sites for bison and other wildlife.

Precipitation and snowmelt in the Mission Mountains influence streamflow entering the Lower Flathead subbasin. Average monthly discharge from Mission Creek (USGS station number 12377150) increases rapidly from April at 24 cubic feet per second (cfs) to May at 99 cfs and peaks during June at 179 cfs. Streamflow declines during the summer and early fall to less than 20 cfs from December through March. A similar seasonal pattern, but with less flow, is observed for South Crow Creek near Ronan.

Differing valley-fill sediments from sediment accumulation throughout the geologic history of the valley and multiple glaciations created a variable matrix of aquifers (bodies of permeable rock) in the Mission Valley. Direction of ground water flow in the valley is to the west and southwest from the Mission Mountains. Aquifers occur in the deep valley-fill sediments and in zones of secondary permeability where bedrock is fractured.

In 2009, the Federal Government and the State of Montana signed a compact that settled water rights at the refuge complex for all time (Montana Code 85–20–1601). Besides instream flow and nonconsumptive uses for the Elk, Mission, Pauline, and Trisky Creeks, the compact documents water rights for 97 springs, seeps, and wells on the National Bison Range. At some locations, these water sources include or support small wetlands and associated wildlife.

## **6.2 Habitat Management**

This section describes the grassland, forest, riparian area, and wetland habitats of the affected refuge complex units. There are also descriptions of the invasive plant species that grow in these habitats.

We manage many of the refuge complex habitats with an objective to maintain and restore biological diversity and integrity to these systems and provide habitat for Federal trust species. This section also describes management tools and considerations—prescriptive grazing and farming, the role of fire, and water-level management. An integral part of these programs is inventorying and monitoring the plant and animal species affected by these actions to gauge the effectiveness and success of the selected management activities.

### **GRASSLANDS**

Grassland communities dominate all units of the refuge complex, covering approximately 85 percent of the area. Dominant grass species on the Bison Range include rough fescue, Idaho fescue, and bluebunch wheatgrass. Other common species include prairie junegrass, intermediate wheatgrass, western wheatgrass, green needlegrass, and needle-and-thread. On Pablo Refuge, Ninepipe Refuge, and the district, dominant grasses include smooth brome, western wheatgrass, and intermediate wheatgrass. While these grassland communities remain productive and capable of supporting the bison herd and other associated wildlife with some native components intact, the condition of the refuge complex's grasslands has declined over the past century as invasive plants have become established and spread (see invasive plant species section, below). Pablo Refuge, Ninepipe Refuge, and the district have little native species component remaining, owing to a history of intensive agricultural use,

followed by Service planting to dense nesting cover for waterfowl production. A few areas, including the Kicking Horse Waterfowl Production Area, are believed to never have been tilled for agricultural purposes and have a strong representation of native plants.

Grazing by bison and other large herbivores is the primary use of grasslands on the refuge complex (see prescriptive grazing and wildlife management sections, below). Bison grazing is managed using a rotational grazing system in order to disperse use across the Bison Range and to reduce the risk of localized overutilization. These grasslands, dominated by cool-season species, evolved with periodic, relatively low-intensity grazing throughout the year, but are not believed to have supported the large, year-round herds that we have had for the past 105 years.

Wildland fire has helped shape the environment and maintains the structure and function of some systems; its removal as an ecological driver can have adverse effects. Periodic fires would have maintained the grasslands and killed most tree seedlings before they could become established. The elimination of the historical pattern of frequent low-intensity fires in ponderosa pine and pine-mixed conifer forests has resulted in major ecological disruption (Arno 1996). Most of these stands have replaced the grassland understory with dense thickets of small trees, thereby shifting composition toward the more shade-tolerant and widespread Douglas-fir. In the absence of fire, we are challenged to manage and control conifer encroachment into native grasslands, which results in a loss of forage for bison and nesting habitat for grassland birds.

## **FORESTS**

Forest communities cover approximately 10 percent of the Bison Range. Little forestland occurs at the Ninepipe and Pablo Refuges or the waterfowl production areas. Suppression of natural and Native American-lit fires has altered the habitat mosaic that historically occurred in the Mission Mountains and Mission Valley. Large pines that were sustained by frequent low-intensity fires were replaced by younger trees after the large trees were logged. Subsequent fire suppression created crowded conditions that promoted insect and disease outbreaks and increased the hazard of large, more intense fires. A shift in dominant species from ponderosa pine to Douglas-fir occurred as a result of fire suppression.

Before Europeans settled the area, the forests of what is now western Montana were composed primarily of open stands of mixed-conifer species with a grass understory. Ponderosa pine occupied the drier sites, and Douglas-fir occupied wetter sites on north-facing aspects. In the interior of the southern Flathead Valley, the forests were likely restricted to a few areas along the upper elevations and rocky areas.

Forest stands on the Bison Range occupy approximately 15 percent of the acreage. Black cottonwood and Rocky Mountain juniper are common along Mission Creek, while Douglas fir and ponderosa pine dominate most upland forest stands.

## **RIPARIAN AREAS**

Productive, stable riparian areas occur along the Elk, Mission, Pauline, Sabine, and Trisky Creeks and the Jocko River. Common plant species at these sites are willows, water birch, cattails, sedges,

and rushes. Many seeps and springs occur on the refuge complex. Though no formal condition assessment has occurred, these areas are generally believed to be in good functioning condition across the refuge complex.

## **WETLANDS**

The refuge complex has a variety of natural and developed wetlands. Low-lying areas that allow the accumulation of surface water—depressional wetlands—are extensive around Ninepipe Reservoir and are primarily classified as freshwater emergent marsh or freshwater pond. Depressional wetlands in the Mission Valley have been described as kettle or pothole wetlands (Hauer et al. 2002) using the terminology of Stewart and Kantrud (1971, and as pingo ponds (Phillips 1993). Regardless of their geologic origin, depressional wetlands in the Mission Valley have highly variable physical properties resulting from varying interactions of surface and ground water hydrology (Phillips 1993).

## **INVASIVE PLANT SPECIES**

Invasive plant species threaten the health and quality of the habitat by not providing the necessary components of nutrition and cover for native species to thrive. Invasive plants detrimentally affect native communities through competitive exclusion, altering behaviors of insect pollinators, hybridization with native plants, and changes in insect predation. They outcompete, invade, and displace native plant communities, altering species composition and relationships and reducing species diversity. They form monocultures, where only one species grows, that change the physical structure of the native communities, increase soil erosion resulting in changes in soil structure and chemical composition, and alter microclimates (the climate characteristics in a small space such as the layer near the ground that is influenced by vegetation cover). Invasive plant species may alter ecological processes such as community productivity; soil, water, and nutrient dynamics; plant community successional patterns (sequential changes in vegetation); and disturbance cycles. Research has shown that the replacement of native plant species has resulted in reduced soil organic matter, reduced soil nutrients, degraded soil structure, decreased water-holding capacity, and increased soil erosion.

Table 2 identifies species that the refuge complex staff has identified as either widespread or localized on the refuge complex along with the length of known infestation. The refuge complex has long battled with invasive plant species encroachment onto native habitats using integrated and adaptive management techniques. We expend considerable resources, including staff, equipment, and supplies to combat and control these species that threaten to compromise the purposes for which these units were established. Part of this effort is substantial coordination and combining of resources with the State and CSKT to combat invaders across the Mission Valley.

**Table 2. List of invasive plant species identified on the National Bison Range Complex, Montana, as of 2012.**

<i>Documented prior to 2002</i>		<i>Documented after 2002</i>	
Widespread	Localized	Widespread	Localized
Dalmatian toadflax	Houndstongue	Teasel	Hawkweed
Spotted knapweed	Purple loosestrife		Yellow toadflax
St. Johnswort	Yellowflag iris		Flowering rush
Canada thistle	Whitetop		Poison hemlock
Sulfur cinquefoil	Russian olive		Leafy spurge
Cheatgrass			

*Source: FWS 2012a.*

Many invasive plants grow within a suite of native species, complicating our ability to maintain the existing natives while controlling targeted invaders. Consistent management and restoration of native habitats is particularly important in areas of dense infestations by established invaders.

Integrated pest management is an effective and environmentally sensitive approach to pest management that relies on a combination of common sense practices. Integrated pest management programs use current, comprehensive information on the life cycles of pests and their interaction with the environment. We use this in combination with best management practices to manage pests by the most economical means and with the least possible hazard to people, property, and the environment. One of the fundamental aspects of a successful integrated pest management program is the surveying and monitoring of invasive plants and treatment areas. We have completed some mapping of known invasive plant species on the refuge complex. All treatment sites are mapped and monitored.

Approaches to managing or responding to invasive plant species can be categorized as prevention, suppression, and eradication—all in an atmosphere of partnership with neighboring landowners.

- Prevention methods apply when an infestation is expected and we take action to prevent it from occurring. Some species are not known to occur statewide, while others are known local threats. Examples of prevention methods are (1) restricting the use of watercraft on refuge complex waters, (2) washing equipment used to apply herbicide before and after each application, (3) surveying areas of likely invasion, and (4) promoting education and outreach to increase public awareness about problems with invasive plants including noxious weeds.
- Suppression techniques are applied when a problem has been detected. Methods include biological (integrated pest management), chemical, mechanical (grazing and burning), cultural (education), and legal measures. Early detection and rapid response is a programmatic strategy that incorporates active surveys with targeted treatment application. We apply containment and control strategies to manage or minimize the spatial extent of a known infestation.
- Eradication techniques are applied when an infestation can be totally removed. Eradication can be time and cost intensive and can be extremely difficult to achieve, especially for infestations of any size greater than a small patch of plants detected before a seedbank can be established.

It is generally accepted that early detection and rapid response measures to prevent a large-scale invasion by nonnative plants is more economical than the cost of suppression efforts after invaders become established. The refuge complex program emphasizes suppression and early detection and rapid response strategies for many species.

## **PRESCRIPTIVE GRAZING AND FARMING**

The rotational grazing program for bison on the Bison Range is discussed in the grasslands and bison management sections. That program has differing purposes and management from the prescriptive grazing programs on other units of the refuge complex in that bison grazing on the Bison Range is a fundamental purpose and use of the refuge that must be managed in order to reduce impacts to grassland systems. On the other hand, prescriptive grazing on other refuge complex units is used periodically as a means to a desired end, such as for a desired habitat condition.

The Service purchased lands for waterfowl production areas with Federal Duck Stamp funds, underscoring the central goal of waterfowl production and hunting opportunity for these units. The refuge complex has used prescriptive grazing, mowing, and farming activities since acquisition of the various parcels in order to reset successional processes and to reinvigorate grasslands that thrive with periodic disturbance. Initially, we used these practices to control various invasive plant species and to convert historical agricultural fields into more productive sites for nesting, brood, and escape cover for waterfowl and other birds. Activities on waterfowl production areas require clear coordination and communication with any private cooperators doing farming or grazing.

We use prescriptive grazing to reduce matted, thatched dead vegetation for more effective herbicide application on target invasive forb species. On some units, we apply these treatments on a 3–5 year rotational plan to develop optimal waterfowl-nesting cover and habitat complexity.

The refuge complex uses farming activities on selected waterfowl production areas when the density of invasive nonnative species requires the use of herbicide for several years to remove established perennials (plants that live more than two seasons). This also helps to deplete or, in some cases, stop further development of the seedbank of the invasive plant species before establishing the desired species composition. To prevent seed set on dense stands of invasive plant species (teasel, for example), we use mechanical controls including rotary brush-hog mowing and sickle-bar cutting.

Grazing has historically, but not recently, occurred on the Ninepipe and Pablo Refuges; in the past, such grazing has been conducted by CSKT under a deferred rotational system with Service concurrence via a memorandum of understanding.

## **THE ROLE OF FIRE**

Before modern agriculture, fire suppression, and urbanization, vegetation patterns were shaped by fire regimes with characteristic severity, size, and frequency (Frost 1998, Gill 1998, Heinselman 1981, Kilgore 1981). The Palouse prairie and forested areas on the refuge complex evolved through a regime of frequent, low-intensity surface fires at intervals of between 1 and 30 years (Arno 1976, 1996). Lightning was the principle cause of these fires (Smith and Arno 1999). Even today, lightning-ignited fires occur almost annually on the refuge complex, particularly the Bison Range.



## ***Wildfire Response***

We and CSKT participate in the National Interagency Fire Qualification System, which includes employees of Federal, tribal, State, and local fire organizations. CSKT has been an excellent partner in our fire management program, including wildfire response and prescribed fire activities. Most of the refuge complex is within CSKT's fire response area, and we have an annual operating plan with the Tribes to provide initial attack on all wildfires throughout the refuge complex. Several Bison Range employees have the necessary training to conduct fire operations; however, the only employee with specific fire duties is the range technician, who is qualified as a type 4 incident commander.

## ***Prescribed Fire***

The refuge complex follows fire management plan guidelines when managing prescribed fire treatments and wildfire. We can use prescribed fire as a tool to control invasive plant species, improve grassland habitat, and manage wildlife movements. Using prescribed fire requires substantial planning and monitoring to decide location, duration, and size of treatment area. Our biological and fire staffs are responsible for writing a prescribed burn plan, including the monitoring protocol and safety aspects of the operation. Completion of prescribed fire treatments depends on available money and meeting the prescriptive window (environmental requirements such as specified temperature, wind direction and speed, and humidity, along with available resources). Dedicated funding for prescribed fire has been greatly reduced, so it is challenging to use this tool in refuge complex programs. Nevertheless, prescribed fire is an effective habitat management tool, and we would continue to use it throughout the refuge complex as objectives dictate and given available resources.

## **WATER LEVEL MANAGEMENT**

The main bodies of water in the refuge complex are the Ninepipe Reservoir (15,000 acre-foot capacity) and Pablo Reservoir (28,400 acre-foot capacity). These were constructed as part of the Flathead Irrigation Project in the early 1900s. The Service's national wetland inventory classifies both as lakes with varying amounts of freshwater emergent marsh, scrub-shrub along their perimeters.

The Ninepipe and Pablo Refuges were first established as reservoirs for irrigation and are operated under an agreement among CSKT, the Flathead Irrigation Project, and us. As part of the refuge easement agreement between CSKT and us, these reservoirs continue to supply irrigation water to neighboring landowners while providing habitat for wildlife. BIA ran the irrigation project until 2010, when it was transferred to the cooperative management entity established by agreement with Federal, tribal, and State governments. In the spring of 2014, BIA reassumed management of the Irrigation District due to conflicts over the proposed reserved water right compact and accompanying water use agreement on the Reservation. This dispute resulted in the Flathead Irrigation Project being dissolved. Management of wildlife habitat is a secondary consideration to the irrigation uses of the Ninepipe and Pablo Reservoirs. Nevertheless, management of the water regime for irrigation has generally aided waterfowl and shorebirds, except in high water years when nests are often flooded.

The water level in both reservoirs peaks during May and June and gradually declines through the summer, depending on irrigation needs. Average storage from 1961 to 1985 at the end of June was 14,700 acre-feet at Ninepipe Reservoir and 23,000 acre-feet at Pablo Reservoir. Average overwinter

storage from 1961 to 1985 was approximately 6,000 acre-feet at Ninepipe and approximately 8,000 acre-feet at Pablo (Service unpublished data located at the Bison Range).

In the 1980s, Ducks Unlimited, Inc. funded the following water management projects at the reservoirs:

- At the Ninepipe Refuge, projects included the construction of three islands within the Ninepipe Reservoir and the Scoonover Dike impoundment on the east side of the reservoir. The Scoonover project comprises the dike itself, islands, and 7 acres of impoundments on refuge lands and another 19 acres on State lands.
- At the Pablo Refuge, work included the construction of a ditch and dike for independent water level management of six bays on the western side of Pablo Reservoir. Collectively, these bays provide breeding pair and brood habitat on approximately 275 acres of wetlands with approximately 9 miles of shoreline habitats and 1,150 acre-feet of water. Historically, these low-gradient bays were rapidly dewatered during the irrigation season. The water control structures increased the quality and longevity of marsh and open-water habitats during nesting, brood rearing, and migration.

There are water management capabilities on some of the waterfowl production areas. Historically, refuge complex staff filled potholes on the Anderson Waterfowl Production Area and parts of the Crow Waterfowl Production Area by pumping water from Spring Creek and the Post canal, respectively. Parts of the Crow, Duck Haven, Herek, Montgomery, and Sandsmark Waterfowl Production Areas have ditch systems to fill potholes via check dams placed in established ditches. The potholes at the Johnson 80 and Hall 80 Waterfowl Production Areas are filled via flood irrigation from the ditch or natural precipitation and runoff events. Refuge complex employees are responsible for water manipulation activities, sometimes with the help of Flathead Irrigation District staff.

## **6.3 Wildlife Management**

This section describes the major wildlife groups and their management.

### **BISON**

The National Bison Range maintains an overwintering herd of 300–350 bison. The basic objectives of the bison program are to conserve bison genetic diversity, maintain herd health, and provide opportunities for the public to view bison in a natural prairie setting. The herd size is managed to remain within ecological carrying capacity, including the habitat and forage needs of other wildlife species such as elk, deer, bighorn sheep, pronghorn and a variety of grassland nesting birds. Comprehensive herd health and genetic monitoring programs are integral parts of herd management. Though health is an important aspect of herd management, we manage the bison as wild bison; we do not regularly vaccinate the bison for any diseases and do not provide supplemental feed.

## ***Bison Grazing Management***

The range started the current grazing management program in 2011 based on preliminary data and recommendations on herd and range condition data, delivered under a cooperative agreement with researchers at Montana State University. Based on staff experience and expertise, periodic range condition assessments (most recently completed in 2005), and external expert input, refuge complex staff use best available science and an adaptive management approach to fine-tune and adjust annual grazing plans.

From April through October (29 weeks), we rotate the herd twice through 6 available pastures. The first rotation calls for 2 weeks in each pasture; the second rotation is 3–4 weeks per pasture, depending on the conditions and available forage as determined by the range biologist.

For the remaining 22 weeks during the winter months (not including the 1 week during roundup that they spend in and around the corral system), the herd has historically resided on the south side of the range. However, in winter 2013, we let the bison roam throughout the range. Our staff will monitor the effects of this adjustment to winter range management.

The rotational grazing program maximizes forage production and minimizes negative effects to vegetation communities and range condition. Various considerations must be weighed in crafting and carrying out an effective rotational system:

- herd and human safety
- minimal risk of movement-related stress on newborn calves and pregnant cows
- minimal potential for disease transfer between the Bison Range herd and domestic animals on adjacent properties
- provision of safe and secure calving locations during peak calving season (for example, consideration of environmental risks to newborn calves from spring high water in Mission Creek)
- available forage in each pasture and the timing of grazing demands relative to the annual timing of plant growth, productivity, and sensitivity
- viewing opportunities for refuge visitors
- ease of gathering the herd before roundup to bring the bison to corrals
- staff availability for moving bison between pastures
- adequate water, especially during warm months
- inability to control the movement of other big game grazers
- flexibility to adjust the grazing program based on real-time conditions and unpredictable events (such as unplanned bison moves through down fence)

Rotating the bison herd between grazing units requires unique skill in horseback riding and animal behavior related to wild bison. Experience with bison and horse behavior and the terrain of the range is

an important element for protecting the staff, horses, and bison during each move. The maintenance staff is responsible for leading all bison relocations, which involves developing a strategy based on the location of the herd, the weather, terrain, animal behavior, access to gates, timing of the move, and positioning and skill of riders. This rider and behavior program and associated activities help maintain the health and wellness of the bison and the habitat they depend on.

### ***Bison Herd Health***

We designed the program for monitoring bison herd health to assess the presence and prevalence of diseases in the population as a whole, not necessarily to find out the disease status of individual animals. The program includes (1) year-round direct observations of the herd aimed at detecting acute injuries, chronic conditions, mortalities, and emerging disease, and (2) regular sampling during roundup for a suite of diseases of particular concern.

Bison Range staff performs year-round, direct observations during routine work. Much of the information gleaned from herd health observations is documented and discussed informally among refuge complex staff, who have the experience to deal with situations such as injuries, mortalities, and necropsies. We routinely coordinate with our wildlife health office in Bozeman, Montana, on concerns about disease or life-threatening conditions.

Although annual sampling and disease testing has been conducted at the range for decades, a statistically derived disease detection model was used starting in 2000 to enhance detection of several diseases, including paratuberculosis. This disease, commonly known as Johne's (pronounced YO-nees) disease, is a bacterial intestinal disease that causes diarrhea, severe weight loss, and eventual death in bison and cattle. The range staff also collects samples for diagnostic laboratory testing to evaluate exposure to several viral and bacterial diseases common in the cattle industry, including bovine virus diarrhea (BVD types 1 and 2), parainfluenza-3 (PI3), infectious bovine rhinotracheitis (IBR), bovine respiratory syncytial virus (BRSV), leptospirosis, epizootic hemorrhagic disease, bluetongue and disease caused by *Mycoplasma bovis*. Statistically-derived sample sizes provide detection of disease occurring at a minimum of 5-percent prevalence with 95-percent confidence. Detection may be slightly improved by selecting approximately half of the animals for sampling at random and half based on historic testing results. We assess the body condition of most of the noncalf herd. Prior to the roundup, we randomly collect fecal samples in the field to evaluate parasite burdens.

Some agents of diseases such as malignant catarrhal fever, Johne's disease, and bovine viral diarrhea have been detected at low levels, or preliminary data suggests that they may be present. In 2010–11, an antigen test for bovine viral diarrhea was conducted on the herd and none was detected.

Though regular vaccinations are not administered as a matter of course, bison would be vaccinated (if the vaccine is available and effective) in the case of a disease outbreak. The last time we used a vaccine at the Bison Range was in 2010 as a preventative measure for bovine viral diarrhea.

### ***Annual Bison Roundup***

The annual bison roundup is critical to managing the range's bison herd. The roundup, conducted in October, is necessary to manage herd size, monitor herd health, collect genetic samples from calves, mark calves with microchips, and collect other necessary biological samples for disease monitoring.

Following the Bison Range's 1990 fenced animal management plan and an evaluation of the current habitat conditions, the range maintains an average herd size of 350 animals. We select surplus bison for removal based on a combination of factors—sex, age, and genetics. Our wildlife health office maintains a database for all animals on the range. Once the biology staff selects the number of bison that must be removed to maintain habitat quality, the wildlife health office selects which animals should be kept in the herd to conserve genetic diversity and which animals contain well-represented genetics in the herd that can be removed. Bison are first considered for transport to other Service herds to achieve Service-wide genetic conservation objectives. Based on existing regulations and policies, we can then donate additional surplus animals (up to 25 percent of the annual surplus) to American Indian tribes, approved research programs, other specific conservation organizations or government entities, or sell them to private individuals. Published research shows that culling young animals can reduce the effects of genetic drift by lengthening the generation time, so we generally sell animals 1-3 years old, with calves kept each year until results of the genetic testing are available for the following year's roundup.

The range's maintenance and biology staffs work specific stations and lead groups of team members in conducting various operations—from rounding up the bison and moving them through the corral system to collecting biological samples. By having these staffs lead individual teams at every stage in the process, we reduce the risks to workers, including volunteers, and the bison.

- The staff herds most bison, with emphasis on gathering as many of the younger animals as possible without undue stress to the animals, to the corral system through a series of fences and gates using horses and all-terrain vehicles.
- We first stage the bison in a series of smaller pastures next to the corral system. Our lead staff sorts the bison to ease their processing through the corral facility but also to make sure that each pasture contains only as many bison as the available grass and water would support. Even for the short-duration stay, this is an integral part of wildlife stewardship and the roundup.
- We scan each bison for a microchip that identifies the animal in a database. The animal is weighed and scored for body condition and any signs of disease or injury.
- After the bison are identified by their microchips, we send most animals directly back to the range, with some going to the chutes for further workup.
- At the chute, we test adult bison for a variety of potential diseases while calves are microchipped and genetic information is gathered. Surplus animals are also checked at the chute to confirm they have an eartag as required for transport off the range.
- Maintenance workers operate the hydraulic chutes and work with the biology staff to move bison through the operation safely and collect samples quickly, in an effort to prevent stress or injury to the bison.

This annual event takes extensive planning and preparation. Soon after the end of each bison roundup, we start getting ready for the next year's roundup. Each year, the staff looks for ways to further improve the corral and chute facilities, animal handling, and data processing procedures.

### ***Bison Genetic Conservation and Management***

The Department of the Interior's bison herds are part of a metapopulation management approach to bison conservation—managing small scattered herds throughout several States as one herd for genetic considerations. Smaller herds are in greater danger of the effects of genetic drift (incremental loss of genetic diversity over time) when those herds are managed in isolation from each other. When genetic diversity is used as the key criterion for evaluating management options, a population size of about 1,000 animals is needed to achieve a 90-percent probability of keeping 90 percent of alleles (Gross and Wang 2005). Our DOI metapopulation approach is built upon an expectation of an over-winter herd size at the Bison Range in the range of 300-350 bison, depending on local conditions.

The Bison Range herd has a high level of genetic diversity, with one of the highest levels of allelic richness, genetic variation, and private alleles (genes of a specific subpopulation) of tested Federal herds (Halbert 2003, Halbert and Derr 2007, Hedrick 2009). Our bison also have a low level of cattle introgression (the incorporation of the genes of one species into the gene pool of another). The range has only had 12 animals brought into the herd in the last 98 years. We have closed the herd to bison from outside sources to preserve high genetic diversity, maintain low levels of cattle gene introgression, and reduce the potential for the introduction of disease. Though small, the actual amount of cattle genetic material in the range's herd is unknown. Genetic drift may be decreasing the level of cattle introgression.

Each year, Bison Range staff identify a desired cull number based upon the number of calves produced that year and the current condition and trend of rangelands on the range. Given that number and our specifications on target age classes for the cull and the desired post-cull herd sex ratio, the Service's wildlife health office in Bozeman, Montana, selects individual bison for cull based on genetic information. Using the latest in microchip hardware and software technology, the Bison Range is able to effectively manage the bison herd to maintain high genetic diversity. This effectiveness relies on having a staff with skills in bison management, population dynamics, and wildlife health. These skills can be acquired through experience over time, and the Service's wildlife health office plays a central role in supporting the cull selection. However, local biologists' knowledge and decisions made to maintain bison genetics is important, as the effectiveness of local biologists' disease and health surveillance work guards against threats, such as disease, that could impact the herd and thereby the genetic representation at the Bison Range.

## **OTHER BIG GAME**

Besides the bison herd, the range manages herds of Rocky Mountain elk, mule deer, white-tailed deer, Rocky Mountain bighorn sheep, and pronghorn (see table 3).

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**Table 3. The species and estimated populations of other big game animals on the National Bison Range, Montana, in 2012.**

<i>Species</i>	<i>Estimated current population</i>
Rocky Mountain elk	130
Mule deer	200
White-tailed deer	200
Rocky Mountain bighorn sheep	125
Pronghorn	110

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### ***Elk***

The only other big game species actively managed on the range are elk, which use the same grazing resources needed by bison, reducing available forage. To lessen this effect, we maintain a target population of elk on the range. As with bison, the range's fenced animal management plan establishes target elk herd numbers. This plan is scheduled to be updated in the next few years.

### ***Deer, Sheep, and Pronghorn***

Some of the smaller big game species, such as deer, are able to move in and out of the range. Other species, such as bighorn sheep and pronghorn, are resident to the range. In recent years, the range has documented a pronounced increase in the bighorn sheep population. Sheep are effective grazers and can reduce forage availability for bison. The biology staff plans to work with researchers to evaluate the effects of the increasing sheep herd and decide if a response is needed, which could include offering sheep to relocation programs.

### ***Other Big Game Health Issues***

Wildlife health monitoring is a cornerstone of the wildlife management program. Our biology staff has worked with the wildlife health office to design and carry out a monitoring program for wildlife health. The wildlife health office (1) provides current information and guidance on wildlife threats, (2) helps in the development of protocols and plans for disease management on refuge complex lands, and (3) provides technical reports on lab results and findings.

Refuge complex staff monitors refuge animals for signs of disease and sickness and conducts necropsies on many big game animals that die or are removed from the herd. We also participate in other Federal and State programs to monitor for chronic wasting disease and West Nile Virus, a disease that can be spread to humans.

Chronic wasting disease is a transmissible spongiform encephalopathy in which infectious proteins accumulate in the brain and brain stem resulting in neurological impairment, diminishing body condition, and eventual death. The staff collects CWD samples from elk that are removed during population management activities. We perform full necropsies either opportunistically or if a clear and present risk is identified. We also collect samples from deer that die from unknown causes. Together

with the wildlife health office, our biology staff creates protocols for sample management and processing.

Bird surveys for West Nile Virus and bird flu are conducted based on perceived refuge-specific concerns or threats identified by local, State, and Federal officials.

## **OTHER WILDLIFE**

The refuge complex supports a diverse array of other wildlife from birds to large carnivores.

### ***Birds***

More than 200 species of birds have been documented on the refuge complex. Notable grassland species include grasshopper sparrow, long-billed curlew, and western meadowlark. Forest and riparian areas support a diverse suite of species including western bluebird, yellow warbler, yellow-breasted chat, Townsend's solitaire, and Lewis' woodpecker, a bird identified by the State as a species of concern. Upland gamebird species include ring-necked pheasant, gray (Hungarian) partridge, blue grouse, and ruffed grouse.

Common raptors include American kestrel, northern harrier, red-tailed hawk, short- and long-eared owls, and great-horned owl, which forage and nest on the refuge complex. In some years, the Mission Valley, including the refuge complex, supports high densities of wintering rough-legged hawks.

Waterfowl, such as canvasback and American wigeon ducks, are abundant on the wetlands, rivers, and lakes found on the refuge complex but particularly on the district, which includes the Ninepipe and Pablo Refuges. We see the largest concentrations in the spring and fall, but many species, such as mallard and pintail, nest on the managed and natural wetland basins. In the past, artificial nesting structures for waterfowl have been used intensively at the Ninepipe and Pablo Reservoirs in the form of nest platforms and boxes. Some of these still exist.

Trumpeter swans, a species of concern in Montana, nest on the waterfowl production areas and the Pablo Refuge. The swans spend the winter on the Flathead River and those district waters that do not freeze. Trumpeter swans are regularly observed on Mission Creek and its associated sloughs and wetlands but are not known to nest there.

### ***Mammals***

Large carnivores such as badger, bobcat, coyote, black bear, and mountain lion are year-round residents that reproduce on the Bison Range. Wolves have been sporadically reported on or near the Bison Range; in the winter of 2012 and again in 2013, a lone wolf was documented on the range. Similarly, grizzly bears have been occasionally reported on the Bison Range in recent years, and have been photographically documented each year since 2012.

Small mammals such as Columbian ground squirrel, yellow pine chipmunk, and voles are common and cyclical and are an important forage base for carnivorous mammals and raptors.

Muskrats are regular inhabitants of wetland potholes. Waterfowl, including swans, use the muskrat mounds or lodges for nesting. Although not considered common, mink and long-tailed weasel have also been recorded.



## ***Fish, Reptiles, and Amphibians***

Most of the units on the refuge complex support fish species. The reservoirs in the Ninepipe and Pablo Refuges support the largest populations of warm-water fish, such as yellow perch and largemouth bass. Mission Creek and the Jocko River, on the Bison Range, are the only bodies of water that support cold-water species such as rainbow trout and brown trout. Historically bull trout, a threatened species, occurred along the entire length of Mission Creek. Only a small part of this creek is on the range. Rising creek temperatures, particularly off the range, has affected this species' ability to survive.

The Crow, Ereaux, and Montgomery Waterfowl Production Areas are the only units in the district that have enough water in isolated wetlands, creeks, or drainage ditches to minimally sustain warm water fish, similar to those found in the Ninepipe and Pablo refuges. The refuge complex is known to support prairie rattlesnake, rubber boa, bullsnake, eastern racer, and garter snake. Painted turtles are common in wetlands and ponds.

## **6.4 Threatened and Endangered Species**

As of August 2012, we have identified seven listed species that are known to or may occur on the Flathead Indian Reservation: bull trout (threatened), grizzly bear (threatened), Canada lynx (threatened), Spalding's campion (threatened plant), water howellia (threatened plant), wolverine (candidate), and whitebark pine (candidate) (FWS 2013):

- Bull trout may occur in the portion of Mission Creek that flows through the Bison Range. The entire area is located within Bull Trout Critical Habitat Unit 31.
- Grizzlies are known to occur regularly and seasonally in the Ninepipe Refuge area and throughout the Mission Valley. Grizzlies have been reported by Bison Range visitors over the years and have been documented photographically in recent years. Refuge complex staff documented grizzly occurrences using game cameras on the Bison Range in the spring of 2013 and the spring of 2014. A visitor supplied a photo of a grizzly along Mission Creek within the Bison Range in the summer of 2014. No denning activity occurs on refuge complex lands. All grizzly sightings are reported directly to CSKT bear biologists, who lead trapping, tracking, and movement efforts within the Flathead Reservation.
- The other listed species have not been documented on the refuge complex.

Some species have legal protections in place, but are otherwise not recognized as federally listed under the Endangered Species Act and are not Montana species of concern. Bald eagles, golden eagles, and trumpeter swans are considered special status species in Montana because they are protected under the Bald and Golden Eagle Protection Act or the Migratory Bird Treaty Act, or both. These species occur throughout the Mission Valley and are frequently documented on refuge complex units:

- CSKT has an ongoing effort to reestablish a breeding population of trumpeter swans in the area; we have cooperated with the Tribes on this project by providing wetlands for reintroduction sites.
- Bald and golden eagles have been documented nesting and foraging on units of the refuge complex.

## 6.5 Special Management Areas

The National Bison Range and Ninepipe and Pablo Refuge have been designated as important bird areas. The Important Bird Areas program, started in Montana in 1999 and managed by the Audubon Society, is a global effort to identify and conserve areas vital to birds and biodiversity. Thirty-nine important bird areas in Montana encompass more than 10 million acres of outstanding wildlife habitat, including streams and wetlands. To qualify as an important bird area, sites must satisfy at least one of the following criteria to support the following types of bird species groups:

- species of conservation concern (such as threatened and endangered species)
- restricted-range species (species vulnerable because they are not widely distributed)
- species that are vulnerable because their populations are concentrated in one general habitat type or biome
- species or groups of similar species (such as waterfowl or shorebirds) that are vulnerable because they occur at high densities because of their behavior of congregating in groups

Some of the species that qualified these refuges for this designation include the Bald Eagle, redhead, semipalmated sandpiper, Lewis's woodpecker, grasshopper sparrow, and Caspian tern.

## 6.6 Research, Inventory, and Monitoring

This section describes the studies and surveys that we coordinate and conduct on the refuge complex to gain data and understanding about the systems we manage.

### RESEARCH

Research projects are designed to address management needs on the refuge complex. By supporting and facilitating research projects, we have an important means to improve our understanding of refuge resources. Support can include money, but most often we would provide in-kind contributions (such as housing, fuel, loaned equipment, transport, help with site selection, and access to refuge areas not open to the public).

Our biologists work with universities and other partners to design and evaluate proposals including evaluating techniques, methods, and projected products or outcomes. The Bison Range has many ongoing research projects that, while quite productive and self-sustaining, require annual support, permitting, and networking with principal investigators and project staff. Among these efforts are long-term or multi-year projects that focus on basic ecology with implications for refuge management:

- grassland ecology, ecology of grasshoppers and their effects on available forage—University of Notre Dame
- pronghorn population ecology and demography—University of Idaho
- rangeland ecology and range condition assessment—Montana State University
- Rocky Mountain bighorn sheep population ecology and demography—Montana Conservation Science Institute
- ecology of native goldenrod, relative to its status as an invasive species in Europe—The University of Montana
- several studies on response of invasive species to herbicides—Montana State University and the United States Department of Agriculture, Forest Service

We also contribute to other research projects, including studies on the mineral requirements of bison and elk, and studies to develop or improve analytical genetics techniques. Our biology staff evaluates research projects relative to refuge purposes and management needs. These types of projects can be a cost-effective way to leverage limited resources into quality work. A key part of the success of partnerships is a biology staff with the knowledge of refuge complex resources and scientific methods that allows them to prepare project proposals and evaluate research designs. We support expanding opportunities for universities to involve their graduate programs in conducting research projects that we can use to address and resolve management issues.

## **INVENTORY AND MONITORING**

Our biologists complete annual pair and brood counts for waterfowl across the district. These annual counts consist of two to three crew members conducting point counts at fixed, permanent locations each May (pair counts) and July (brood counts). The crews collect data on standardized field forms and enter the information into an existing database that resides on the refuge complex's file server. In 2013, this data was summarized in an annual report, while historical data was entered into a waterfowl count database. In some years, the refuge complex participates in an aerial winter waterfowl survey. We coordinate with FWRC to conduct this part of the survey that includes the reservation.

We conduct two types of big game surveys on the Bison Range, often annually:

- Refuge complex staff does ground-based elk counts (sometimes with volunteer help) at fixed points.

- Aerial surveys are completed in most years in January or February, when snow conditions offer improved visibility of animals.

Our research partners also provide annual population information on our bighorn sheep and pronghorn herds.

## 6.7 Visitor Services

Visitors come from all over the Nation and the world to learn about the National Bison Range Complex and enjoy a variety of wildlife-dependent recreational activities. In 2012, approximately 203,500 resident (from within 50 miles of the refuge complex) and nonresident visitors viewed and photographed wildlife, hunted, fished, and participated in events and programs. The number of visitors comes from the car counter located at the entrance to the visitor center, combined with estimated counts for the remaining units of the refuge complex. The use by activity follows:

- 1,000 visitor days for hunting upland gamebirds and migratory birds on the district
- 11,500 visitor days for fishing
- 138,000 visitor days for the auto tour route
- 50,000 visitor days for wildlife photography
- 6,500 visitor days for environmental education, interpretation, and special events
- 40,000 visitors to the National Bison Range Visitor Center

Brochures containing area maps, public use regulations, bird species, and general information are available for all units in the refuge complex. Birding is a popular activity on all units, given the abundant species of waterfowl, songbirds, and raptors that use the lands and waters in the area. The refuge complex is open from dawn to dusk, except during waterfowl hunting season (waterfowl production areas only) when hunters are allowed reasonable time to access hunting areas. The Ninepipe and Pablo Refuges are closed to all public access during waterfowl hunting.

Visitation is most heavily concentrated on the Bison Range, Ninepipe Refuge, and Pablo Refuge during wildlife-viewing seasons in the spring, summer, and fall. The most popular activity for visitors is driving the 19-mile Red Sleep Mountain Drive on the range. This route offers spectacular scenery and opportunities to view and photograph wildlife. The Bison Range visitor center is open every day in the summer from 9 a.m. to 5 p.m. In the winter, all but 5 miles of the Red Sleep Mountain Drive is closed due to weather and the visitor center is open Monday through Friday from 10 a.m. to 2 p.m.

Visitation on the district is highest during the waterfowl and upland gamebird hunting seasons in the fall. We permit hunting on the waterfowl production areas, which accounts for less than 1 percent of all visits.

## HUNTING

The Bison Range, Ninepipe Refuge, and Pablo Refuge are closed to all hunting.

Hunting is permitted on waterfowl production areas in accordance with State law and per joint State and CSKT regulations. District units in Lake County that are open to hunting for big game, waterfowl, and upland birds and open to trapping are the following waterfowl production areas: Anderson, Crow, Duck Haven, Ereaux, Herak, Johnson 80, Kickinghorse, Montgomery, and Sandsmark. Big game hunting is only permitted by Tribal members. In 2012, it was estimated that approximately 1,100 visitors take part in hunting waterfowl and upland birds. Shotgun hunters may possess and use only nontoxic shot on lands within the refuge complex. Vehicle travel on the waterfowl production areas is not permitted except in designated parking areas and pullouts.

## FISHING

Visitors often travel from Missoula and Kalispell during the summer months to fish for largemouth bass, while yellow perch is the most common species fished for in the winter months. Besides the refuge-specific regulations mentioned below, fishing is permitted on designated areas of the refuge in accordance with State law and per joint State and CSKT regulations.

Seasonal recreational fishing opportunities are available on all or part of the Bison Range, Ninepipe Refuge, and Pablo Refuge. Fishing is permitted on the waterfowl production areas but the wetlands provide minimal fishing opportunities. We prohibit (1) the use of boats, float tubes, or other flotation devices, and (2) the use of lead or lead-based fishing tackle.

### ***National Bison Range***

Anglers visiting the Bison Range enjoy fishing for cold-water species, such as rainbow and brown trout, along parts of the scenic Mission Creek and Jocko River. Mission Creek is open seasonally, spring through fall, and the Jocko River (next to the range's southern boundary) is open to catch-and-release fishing year-round. In 2012, an estimated 300 visitors fished on the range.

### ***Ninepipe National Wildlife Refuge***

Fishing is popular on the Ninepipe Refuge with approximately 8,000 visitors annually. Visitors often travel from Missoula and Kalispell during the summer months to fish for largemouth bass, while yellow perch is the most common species fished for in the winter months.

We close the refuge to fishing during the waterfowl-hunting season in the fall to provide resting and loafing areas for waterfowl. The entire refuge is open to fishing, including ice fishing, from the close of the waterfowl-hunting season to the end of February. From March 1 to July 14, we restrict fishing to specific areas to minimize disturbance to ground-nesting birds. The entire refuge is open to fishing from July 15 until the waterfowl-hunting season.

### ***Pablo National Wildlife Refuge***

In 2012, approximately 3,000 visitors fished on the Pablo Refuge for warm-water species, such as yellow perch and largemouth bass. Winter ice fishing is popular with the local residents and visitors from Missoula and Kalispell.

We seasonally open the refuge to fishing. We close the southern and western parts of the refuge year-round to provide sanctuary for wildlife. During waterfowl hunting, we close the refuge to fishing to provide resting and loafing areas for waterfowl. We keep the northern and eastern parts of the refuge open the rest of the year for fishing, including ice fishing.

### ***Northwest Montana Wetland Management District (Lake County)***

The Crow, Ereaux, and Montgomery Waterfowl Production Areas are the only units in the district that have enough water in isolated wetlands, creeks, or drainage ditches to minimally sustain fish; therefore, fishing is poor. In 2012, we estimate that only 50 visitors fished the entire district.

## **WILDLIFE OBSERVATION AND PHOTOGRAPHY**

Opportunities for wildlife observation and photography are abundant within the refuge complex, and in 2012 it is estimated that almost 150,000 people visited for these purposes. Given the beautiful setting and unique wildlife found on the refuge complex, we receive many requests for commercial filming. Commercial filmmakers must acquire special use permits to work on refuge complex lands. The permits specify regulations and conditions that permittees must follow to protect the wildlife and habitats they have come to capture on film and to prevent unreasonable disruption of other visitors enjoyment of the refuge complex.

### ***National Bison Range***

Wildlife photography is popular on the refuge complex especially on the Bison Range. Many photographers come to the range to capture the landscape of the Mission Mountains, the Bison Range itself, and the wildlife species present. The most popular species for wildlife photographers are the large mammals including bison, elk, deer, pronghorn, bighorn sheep, and black bear. Elk are especially popular during the rutting season in the early fall months.

The most popular activity for visitors to the Bison Range is the 19-mile Red Sleep Mountain Drive that guides visitors through a variety of wildlife habitats. The auto tour route is graveled and fully maintained through the summer months, including annual treatment for dust control. In the winter, the upper road is closed; but a shorter 6-mile winter route is kept open October through May. More than 120,000 visitors traveled the auto tour route in 2012.

The range has a day use area and nature trail near the main visitor entrance gate. There are picnic tables, a covered pavilion, drinking water fountains, and nine vault outhouses. The area receives a tremendous amount of use during the summer, especially on weekends and holidays. Many visitors begin or end the auto tour route with a visit to the day use area. Foot access at the Bison Range is restricted to a few designated trails to reduce the risk of visitors coming into close contact with bison.

### ***Northwest Montana Wetland Management District (Lake County) and Ninepipe and Pablo Refuges***

Birdwatching is particularly popular on the Ninepipe Refuge, Pablo Refuge, and waterfowl production areas, given the thousands of waterfowl, shorebirds, grassland birds, and wading birds that nest, feed, and rest on these areas every year. There is an interpretive walking trail at the Ninepipe

Refuge. Parking and walk-in access is allowed on the refuges during certain times of the year, but year-round access for wildlife observation is available on the nine waterfowl production areas.

## ENVIRONMENTAL EDUCATION

The diversity of habitats and wildlife found throughout the refuge complex makes it an ideal “classroom” for the area’s environmental education needs. The Bison Range receives more than 3,000 educators and students, from preschool to university level, on field trips. The refuge complex staff has created educational programs to promote an appreciation and understanding of the wildlife and habitats the refuge complex was established to protect.

Refuge staff and volunteers provide onsite programs, demonstrations, and talks, particularly at the visitor center. When adequate staff is available, the refuge holds teacher workshops to provide information on refuge resources, share opportunities for student learning, and give out educational materials to participants. School groups can check out various field kits, which can include activity sheets on various topics, field guides, and collection tools for wetland fauna. School groups extensively use the day use area near the main visitor entrance gate and nature trail for environmental education activities, staging, and eating.

## INTERPRETATION

The visitor center has extensive interpretive displays and an orientation video. Here, the public can receive brochures containing area maps, public use regulations, bird lists, and general information for the refuge complex. Many displays focus on the wildlife found on the refuge complex, particularly the bison. The displays show both the importance and the destruction of the large, free-ranging herds of bison—from estimated populations of 30 to 60 million animals to the remaining public and private herds today. There is also a display developed by CSKT on the cultural importance and uses of bison.

There are several interpretive kiosks on the range and at least one each on the Ninepipe and Pablo Refuges. These kiosks orient visitors and provide information on refuge complex management. We are also working with CSKTs Division of Fire to create an interpretive kiosk at the visitor center that highlights the historical importance of fire on the landscape in the Mission Valley.

We give local newspapers periodic news articles on refuge complex activities and informative articles about the values and protection of the area’s natural resources. The refuge complex’s Web site provides information about the area’s natural resources, programs, and regulations. Our Facebook page provides highlights and updates on activities including the following annual events:

- Migratory Bird Day bird and photo walks
- National Wildlife Refuge Week
- Public Lands Day
- Bison roundup
- American Outdoor Fee-Free Weekend
- National Bison Range birthday

## 6.8 Cultural Resources

The following section describes the cultural resources and history of the refuge complex and the Mission Valley, starting with the documented occupation by the tribes that now compose CSKT. Next, we describe Euro-American settlement in the valley and summarize changes to the area's land uses, including those within the refuge complex boundary.

### THE PROTOHISTORIC PERIOD AND EARLY NATIVE AMERICANS

The Protohistoric Period is the period between the arrival of horses and manufactured goods but before the arrival of Euro-American traders and explorers. This period lasted only about 70 years because of the arrival of the Lewis and Clark expedition in 1805.

Malouf (1952) noted that these Intermountain areas of western Montana were the last areas of the United States for immigrants to settle. Many traits of aboriginal times survived through this period without influence from Euro-American culture. When early Euro-American explorers arrived, the area of western Montana was occupied primarily by three tribal groups: the Flathead and Pend d'Oreille (both considered Salish) and the Kutenai (Kootenai). In 1855, Governor Isaac Stevens stated the tribal population in western Montana to be 2,750 (Ryan 1977).

Early tribes were hunters and gatherers, and as such they did not accumulate surplus food and supplies. However, famines were rare. Nearly 30 species of plants were the main sources of foods, medicines, cookware, and housing. The root of the bitterroot plant was a central dietary feature. Families could dig 50–70 pounds of bitterroot in late March or April. Arrowleaf balsamroot, an abundant plant at most elevations of western Montana, was also extensively eaten. Stems were typically peeled and eaten raw before flowering, and later the roots were harvested and cooked. Ponderosa pine provided four forms of food: inner bark, sap between woody layers, cone nuts, and moss hanging from branches. Narrowleaf willow on river gravel bars was used in the construction of sweat lodges and baskets for cooking (sealed with gum). Tribes hunted most of the common mammals present today in western Montana including white-tailed deer and mule deer. Columbian ground squirrels were also harvested. Most birds, except waterfowl, were not harvested, yet mallard eggs were particularly plentiful and a popular food. Other gamebirds were not numerous. Fishing was employed on bison hunts and by those left behind.

### HISTORY OF THE CONFEDERATED SALISH AND KOOTENAI TRIBES

The Salish and Pend d'Oreille are the two easternmost tribes of the people composing the Salish language family, whose territory extended from Montana to the Pacific Coast, generally north of the Columbia River. The Salish-speaking people separated thousands of years ago into different bands. These individual bands became separate tribes in different parts of the Northwest when the population began to exceed food supplies. Eventually these tribes began speaking different dialects of the Salish language (CSKT 2003). The Kootenai Tribe occupied the northern part of Montana and north into Alberta and British Columbia in Canada. Although the Salish and Pend d'Oreille share a common language, the Kootenai language is not related to any other tribe.



The cultures and life practices of these tribes were similar. In the traditional way of life, they gathered roots, including bitterroot and camas, from early spring through the growing season. Camas was a staple that was baked and dried for preservation. Tribes also picked chokecherries, hawthorn berries, huckleberries, serviceberries, and strawberries, and they fished for salmon and bull trout. The tribes' medicines and flavoring herbs all came from the earth.

In the fall, the men hunted mostly deer and elk. The tribes also hunted bison, which provided food, clothing, and important tools. They fashioned tools from stone, bones, and wood. The women dried meats and prepared animal skins for clothing, coloring the hides with natural dyes and decorating them with porcupine quills.

Over the past several centuries, the lives and traditions of the western Indian tribes has been dramatically altered by a series of transformations relating to non-Indian incursions into their traditional way of life. The first was the horse, acquired in the 1730s from the Shoshone Tribe in Idaho. The horse greatly expanded the tribes' range, enabling more efficient travel and hunting, particularly of bison. However, the erosion of intertribal boundaries also contributed to an intensification of conflicts with enemy tribes.

In the 1780s, the Bitterroot Salish were devastated by a smallpox outbreak. The disease spread rapidly and is estimated to have killed one-half to three-fourths of the Salish and Pend d'Oreille bands.

French and British fur traders arrived in the 1790s. However, it was the Bitterroot Salish interaction with the Lewis and Clark expedition in 1805 that opened the door to fur trading in the Bitterroot Valley, which is south of Mission Valley. The Hudson's Bay Company eventually entered the Bitterroot Valley and began to trade with different tribes that traveled through the valley. Traders secured furs from Indians and established forts and missions. In 1841, Catholic missionaries initially established the oldest consistently occupied town in Montana at the present-day site of Stevensville (Stevensville Historical Society 1971).

The expansion of fur trading significantly altered the economy and culture of this region, including providing access to firearms, which changed the way tribes hunted and protected themselves from enemies. The introduction of the gun by the Hudson's Bay Company decimated many tribes. This particularly affected the Salish people whose enemies, the Blackfeet, had acquired the weapons early on, giving the Blackfeet a significant advantage in any battles over resources and territories.

## **EURO-AMERICAN SETTLEMENT AND LAND USE CHANGES**

Western tribes have long used the Mission Valley as a traditional gathering place. Its setting offered excellent hunting and gathering opportunities that provided enough economic resources to accommodate short-term gatherings of large contingents of tribes. The valley was used as a rendezvous site where bartering and gaming was conducted by tribes of the Bitterroot Salish, Kalispel, Kootenai, and Pend d'Oreille. The Mission Valley was known to have excellent soil, good grasses, plenty of water, and abundant forest nearby. The valley was also somewhat protected from Blackfeet Tribe war parties because it was flanked to the east by the rugged Mission Mountains. The richness of the valley and its traditional use by the western tribes as a central gathering place made it a favorable location for a trading fort.

## ***Saint Ignatius Mission***

Father Pierre-Jean de Smet, a Belgian Jesuit priest, arrived in the Bitterroot Valley in September 1841 at the request of the Salish Tribe to establish a mission. The result was the Saint Mary's Mission, the oldest mission in Montana. The religious foothold by the Jesuits among the Bitterroot Salish in Montana soon expanded to other Salish-speaking tribes. Sometime before the spring of 1854, Chief Victor of the Lower Pend d'Oreille band and Chief Alexander of the Upper Pend d'Oreille band searched together for a new mission location. The Jesuit priest required the new site to be more central to the various Salish and Kootenai tribes, provide sufficient natural resources to support the planned population density, and agreeable for agriculture.

After considering all the requirements, Chiefs Victor and Alexander decided to locate the new site in the Mission Valley. In 1854, the Jesuits established the new mission in the heart of Upper Pend d'Oreille territory, some 60 miles north of the town of Saint Mary, 7 miles from Fort Connah, and 7 miles from a major Upper Pend d'Oreille encampment along the Jocko River near present-day Ravalli. The new mission was named Saint Ignatius.

When the mission was moved from the Pend d'Oreille River (in Washington) during August and September of 1854, nearly all the Lower Pend d'Oreille or Kalispel joined with the upper bands in making the move to the new location. Small barges were prepared for transporting the food crops and equipment. Pack horses were used for moving tribal members and other cargo. The group arrived at the site on September 24, 1854, but by October, the main body of the Kalispel decided to return to their homeland on the Pend d'Oreille River. The Kalispel felt uncomfortable with the grouping of tribes that swelled the mission. Chief Victor declared that the Kalispel could not keep their autonomy, so he led his people downriver back to the main camp.

By the end of 1854, a log hut, chapel, houses, and a carpenter and blacksmith shop had been erected at Saint Ignatius Mission. By April of 1855, a population of more than 1,000 people lived near the Saint Ignatius Mission including Bitterroot Salish, Kalispel, Kootenai, Pend d'Oreille, and Spokane tribal members. Because of the establishment of the Saint Ignatius Mission, many Indian families built homes and developed agricultural lands along Mission Creek, including the lower valley that is now a part of the National Bison Range.

## ***Fort Connah***

During the winter of 1846–47, the Hudson's Bay Company built Fort Connah along Post Creek in the Mission Valley. Traders Angus McDonald and Neil MacArthur did the construction, and by 1847, 18 buildings were completed. One of those buildings still stands today. Fort Connah became the center of Hudson's Bay Company operations in Montana during the twilight years of the fur trade, continuing business until 1871.

The establishment at Fort Connah brought small groups of European trappers and farmers into the Mission Valley to work as support staff for the facility. They established gardens and crop fields and grazed livestock. The farmers exported seeds and domestic stock to the Columbia River Basin. By 1871, with the era of fur trading passed and an increasing emphasis on gold mining in northwestern Montana, Fort Connah was forced to close—it was the last fur trading post in Montana.

# THE FLATHEAD INDIAN RESERVATION

When the United States divided the Oregon Territory into the Washington Territory and the Oregon Territory in 1853, western Montana was included in the Washington Territory. President Millard Fillmore appointed Isaac I. Stevens as the Territorial Governor of Washington and the Superintendent of Indian Affairs. Stevens began an aggressive plan to deprive the Indian nations within the territory of title to their lands. His plan restricted the western Montana tribes to one reservation, thereby opening the rest of the land to non-Indian settlement.

Stevens eventually began negotiations with the Salish tribes living on their homelands of the Bitterroot Valley. During these negotiations, observers noted a clear lack of understanding of the specifics of the treaty by the Bitterroot Salish, Kootenai, and Pend d'Oreille Tribes because of the cultural and language barriers. The interpreter, Ben Kyser, was reported to speak Salish badly and was not any better at translating English. During negotiations, the Lower Pend d'Oreille's Chief Victor proposed that Stevens conduct a study to determine the best site for the reservation, which stopped the immediate transfer of their lands in the Bitterroot Valley.

The 1855 Treaty of Hellgate defined the ceded aboriginal territory of the Bitterroot Salish, Kootenai, and Pend d'Oreille Tribes and set up reserved lands for the "exclusive use and benefit" of these tribes. The treaty provided money and infrastructure including mills, shops, schools, and employment. The treaty also recognized tribal members' right to hunt, fish, and gather in their usual and accustomed places outside the reservation.

After the Treaty of Hellgate, pressure increased for the removal of the Salish from the Bitterroot Valley to the Jocko Valley on the Flathead Indian Reservation. In 1872, General James Garfield presented Salish Chiefs Charlo, Arlee, and Adolf with a second treaty that Charlo refused to sign. Chief Charlo remained in the Bitterroot Valley for 20 more years until 1891 when General Carrington and troops from Fort Missoula escorted the chief and his band to the Flathead Indian Reservation.

On the Flathead Indian Reservation, the Federal Government established increasingly restrictive control over traditional cultural practices of the Tribes, banning traditional dances, spiritual ceremonies, and even the speaking their language. Despite this repressive climate, the Tribes, in comparison to those at other reservations, were relatively prosperous, establishing farms and cattle operations. They also welcomed other tribal members to the reservation including Kalispels and Spokanes. Despite efforts to restrict the Tribes' cultural practices, the tribal languages and many of the Tribes' traditions are practiced today.

## 6.9 Operations

The maintenance staff carries out an extensive variety of operations on the refuge complex. Maintenance of facilities and equipment is essential at all the units, and managing the bison herd is a unique and complex program at the Bison Range.

# **MAINTENANCE OF FACILITIES AND EQUIPMENT**

As on many national wildlife refuges, the maintenance staff is responsible for the maintenance and repair of all facilities, roads, equipment, and vehicles to provide dependable, safe, and secure operating conditions for all programs. Maintenance staff also helps with habitat management projects, such as invasive plant species control, haying and grazing programs, habitat restoration, and water level management.

## ***Facilities***

Well-maintained facilities help the staff effectively manage the units as well as provide safe, functional places for visitors to experience the refuge complex.

### **Fences**

The maintenance staff repairs and replaces approximately 60 miles of the exterior and interior fences, which are 6–8 feet tall. This includes maintaining the electrified portions of the interior fence that is required to hold the bison herd for the length of the prescribed rotation based on habitat conditions. Maintenance of the exterior fence is critical to keep the bison from going outside the boundaries of the range onto private lands.

### **Water Developments**

There are approximately 80 tanks on the Bison Range, associated with naturally occurring springs, that provide a year-round water source for the bison while protecting refuge resources. The maintenance staff use underground pipes and collection boxes to move the spring water to the watering tanks. The staff maintains and cleans the tanks, pipes, and collection boxes to provide the bison with an adequate supply of fresh, clean water.

### **Buildings**

There are 10 buildings on the Bison Range including three staff homes, a bunkhouse, the visitor center and administrative office, a shop, and a barn for our horse herd. The visitor center and associated administrative office require a great deal of routine maintenance. More than 120,000 people pass through the visitor center annually. The maintenance staff addresses mechanical and structural issues in this facility. Other public use facilities, such as the day use area, also require seasonal maintenance such as mowing, cleaning the numerous restroom structures, picking up trash, and maintaining associated facilities.

### **Public Access**

There are approximately 21 miles of interior roads throughout the refuge complex that are open to the public, at least seasonally. The most heavily used and popular road is the 19-mile Red Sleep Mountain Drive on the Bison Range traveled by approximately 100,000 vehicles annually. These public roads, some of which travel over steep terrain, must be maintained and graded periodically to make sure they are safe for the visiting public.

Other public areas, such as the Jocko fishing access, parking areas, including parking areas for hunting access on the WPAs, and observation pullouts and structures, require constant inspection and maintenance throughout the busy visitor season of spring through fall.

The Service maintains five nature trails on the refuge complex, two of which provide interpretation of resources.

## ***Equipment***

The maintenance staff maintains about 30 pieces of small equipment including trucks, cars, all-terrain vehicles, and trailers. The staff also maintains eight pieces of heavy equipment including tractors, motor graders, a front-end loader, a bulldozer, a dump truck, and a backhoe. To help us manage the wetlands, the staff maintains various water control structures.

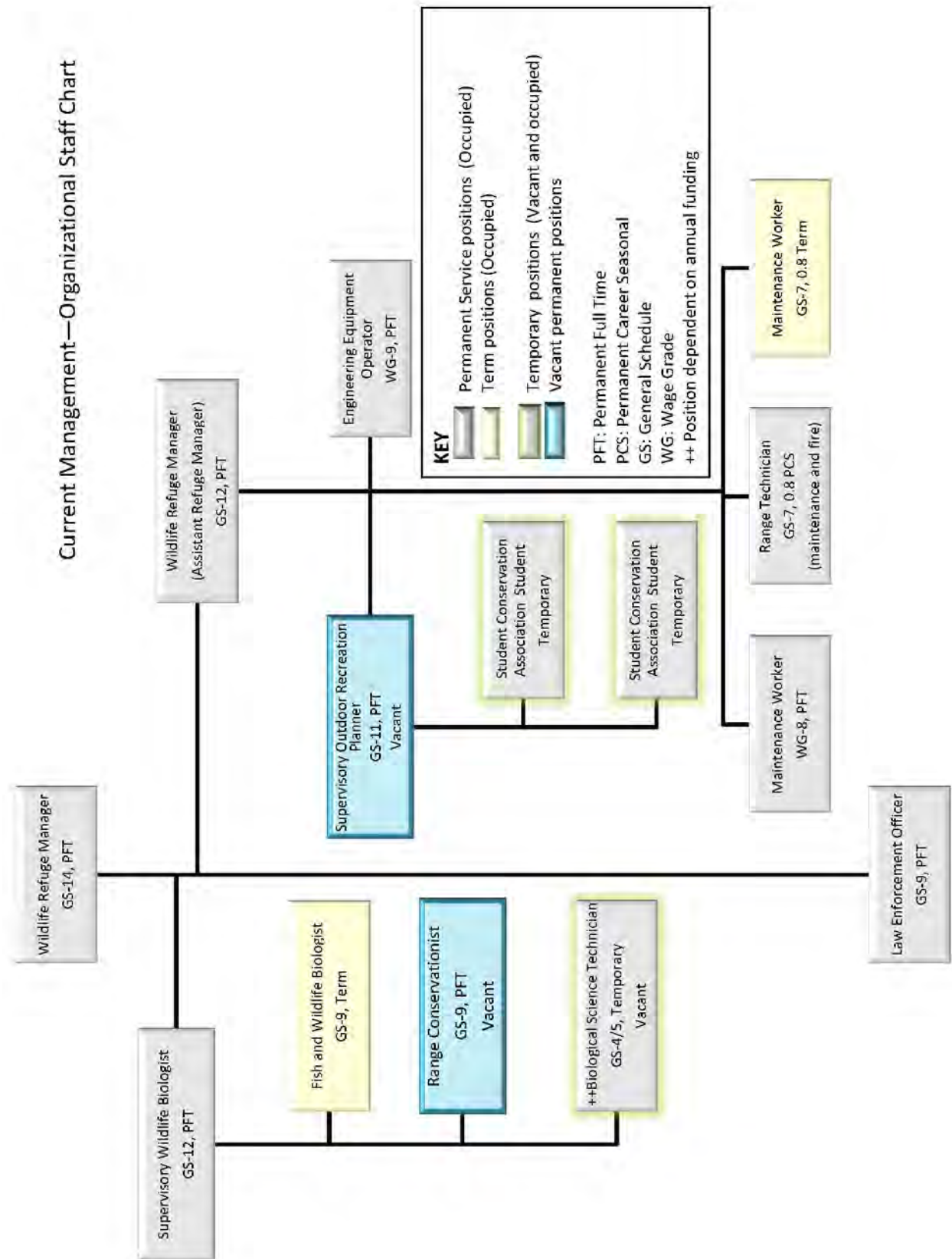
## **STAFF**

The refuge complex is funded for 11 permanent positions (figure 10); however, 2 of these permanent positions are currently vacant and the other two employees in the fish and wildlife biologist and maintenance worker positions were recruited as term appointments (lasting no more than 4 years):

- refuge manager
- deputy refuge manager
- supervisory wildlife biologist
- fish and wildlife biologist (term)
- range conservationist (vacant)
- supervisory outdoor recreation planner (vacant)
- law enforcement officer
- range technician
- engineering equipment operator
- 2 maintenance workers (one position is a term)

All these positions, including the two current terms, are included in the base budget for staff. We also use the money for a vacant WG-7 maintenance worker (permanent seasonal) position to keep the current GS-7 range technician and WG-7 term maintenance worker on longer into the year.

Up to six temporary seasonal employees help with the biological, visitor services, and maintenance programs. The employees range between a GS-3 and a GS-5 (biology and visitor services) or a WG-3 (maintenance). The number of temporary employees depends on the annual funding for refuge complex programs. Because of recent budget cuts, we have become more reliant on volunteers and other programs such as the Student Conservation Association, to staff the visitor center and assist with the biological program.



**Figure 10. Current organizational staff chart.**

## ***Bison and Horse Herd Management***

Our maintenance employees have bison handling responsibilities because they possess the necessary skill. Other employees help with the bison moves as their riding skills allow or progress.

The maintenance staff also feed and train the range's herd of 10–12 horses used in the bison management program. These employees select the animals, based on their knowledge of horses and the needs of the operation. They look for injuries or illnesses and conduct minor veterinary care. This ensures that the horses are treated humanely and are able to perform when needed to move the bison efficiently, while also providing for the safety of the riders and the horses.

## **6.10 Socioeconomics**

This section describes the social and economic aspects that the alternatives may affect, as follows:

- population, demographics, and employment
- public use of the refuge complex
- baseline economic activity

The refuge complex has been part of the surrounding communities for more than 100 years. Most local community members have come to enjoy and appreciate the resources and public use activities available to them. Besides local and State residents, visitors come from all over the country and the world to visit the refuge complex and experience these iconic refuges. Several of the refuge complex units are located along a major State highway that is also the main road leading to Glacier National Park, 2 hours north. The National Bison Range, although located on a county road, is well identified by directional signage on the highway. The Bison Range is listed as one of the top ten tourist attractions in Montana by the Institute for Tourism and Recreation Research (Grau et al. 2012).

Attractions like the refuge complex brought almost 11 million visitors to the State in 2012, an increase of 9.1 percent from 2011. The most frequently cited activity was scenic driving. Nature photography and wildlife watching were the second and third most popular activities engaged in by 46 and 44 percent of vacationers, respectively. Most of the refuge complex is open to compatible public use, at least seasonally, and these recreational opportunities attract nonresident visitors who spend thousands of dollars in the local communities. Visitor spending brings an estimated 3 billion dollars into the State, contributing significantly to the local economies, including lodging, food, gas, and tourism industries (Grau et al. 2012).

Because Montana does not have a sales tax, the State and local tax receipts generated by nonresident travelers are generally lower than other States. However, Montana does have a statewide accommodations tax of 7 percent on overnight lodging. In addition, nonresident travelers contribute to the tax base through the payment of excise taxes on items such as gasoline and alcohol and by supporting industries that pay corporate taxes and whose workers' pay income, property, and other taxes (Grau et al. 2012).

## **POPULATION, DEMOGRAPHICS, AND EMPLOYMENT**

The portions or units of the refuge complex affected by the alternatives are located in Lake and Sanders Counties. Sixty-two percent of these refuge complex lands are in Lake County; the remaining 38 percent are in Sanders County. The largest community in this area is Polson, Montana, which is the Lake County seat and has an estimated population of 4,500. The remaining communities in Lake County are Arlee, Big Arm, Charlo, Dayton, Dixon, Elmo, Pablo, Ravalli, Ronan, St. Ignatius, and Swan Lake. The communities in Sanders County are Thompson Falls, Dixon, Heron, Hot Springs, Lonepine, Noxon, Paradise, Plains, and Trout Creek, with the closest being Dixon, Hot Springs, and Plains. Thompson Falls is the county seat and has an estimated population of 1,300.

The largest communities within 100 miles of the refuge complex headquarters are Missoula, Montana (40 miles south) with an estimated population of 69,122 and Kalispell, Montana (90 miles north) with an approximate population of 21,000.

### ***Lake County Population and Demographics***

Lake County is Montana's ninth most populous county, with an estimated population in 2011 of 28,947. This number represents almost 3 percent of the State population, estimated at 997,667 (U.S. Census Bureau 2010). Between 1999 and 2009, the number of people living in Lake County increased by 9.7 percent, which was higher than the State average of 8.6 percent. In 2010, the population density for Lake County was 19.3 people per square mile, much higher than the State average of 6.8. Approximately 25 percent of Lake County's population lives within the incorporated communities of Polson, Ronan, and St. Ignatius. Between 2007 and 2011, the median household income in Lake County was \$38,268, which is 16 percent below the State average. Approximately 68 percent of residents own their own homes. Future population projections for the study area and the State overall are expected to follow historical trends, increasing slowly.

In 2011, most of the residents in Lake County were under 18 years, estimated at 25.4 percent. Persons over 65 years of age represented 17.3 percent of the population. In 2011, 69.7 percent of the study area population was white persons and 22.4 percent were American Indians or Alaska Natives (CSKT 2013a).

### ***Montana and Lake County Employment***

The Montana and Lake County economies have changed significantly over the past 40 years. In 1970, half of Montana's workers were employed in the basic industries of farming and ranching, the Federal Government, forestry, manufacturing, mining, and tourism. By 1997, only one-quarter of Montana's workers were employed in these industries. In Lake County, farming and ranching are still major contributors to the economy along with local and tribal governments and services.

In 2012, the labor force in Lake County was estimated at 11,256. The unemployment rate was 8.5 percent, meaning 956 individuals were unemployed. The service sector employs more workers and produces more personal income than any other sector in Lake County. Services do not typically make a "product," but use knowledge to generate income. Some examples are medical care, auto repair, legal representation, and tourism. This sector now employs one out of every three workers in Lake County (Lake County [no date]). Some of the largest employers in the study area include CSKT, Jore



Corporation, St. Luke Community Healthcare, and the school districts. CSKT employs an average of 1,100 workers, including seasonal employees, in several tribal programs. An additional 250 employees work at the tribal college, S&K Technologies, and the KuaTaqNuk Resort (both owned by CSKT). Of these CSKT employees, approximately 75 percent are tribal members.

The Sanders and Lake County portions of the National Bison Range Complex employs 9 permanent, full-time Federal employees; 2 term full-time positions (not to exceed 4 years); and an average of 2–6 seasonal employees (working 6 months or less). Except for some of the seasonal employees, all the staff at the refuge complex are permanent residents in the surrounding communities (primarily Lake County), owning or renting homes and purchasing goods from local businesses.

### ***Sanders County Population and Demographics***

Sanders County is Montana's seventeenth most populous county, with an estimated population in 2011 of 11,440. This number represents almost 1 percent of the State population (U.S. Census Bureau 2010). Between 2000 and 2010, the number of individuals living in Sanders County increased by 11.6 percent, which was higher than the State average of 8.6 percent (CSKT 2013a). In 2010, the population density for Sanders County was 4.1 people per square mile, lower than the State average of 6.8. Between 2007 and 2011, the median household income in Sanders County was \$38,268, which is 16 percent below the State average. Approximately 68 percent of residents own their own homes. Future population projections for the study area and the State overall are expected to follow historical trends, increasing slowly.

In 2011, most of the residents in Sanders County were over 65, estimated at 22.6 percent. Persons under 18 years of age represented 19.9 percent of the population. In 2011, 91.6 percent of the study area population were white, 4.4 percent were American Indians, and 4 percent were other ethnic groups, including 2 percent Hispanic (CSKT 2013a).

### ***Sanders County Employment***

In Sanders County, farming and ranching are still major contributors to the economy along with local and tribal governments and services.

In 2010, the labor force in Sanders County was estimated at 4,384, and the unemployment rate was 14.6 percent, meaning 642 individuals were unemployed. The average annual salary in 2010 was \$26,855. Services such as education, health care, and social services account for most (21.6 percent) of the employment opportunities (City-Data.com 2013). The other major employment industries are agriculture, forestry, fishing and hunting, and mining (12.8 percent) and construction (11.0 percent).

The largest employers in the study area include Clark Fork Valley Hospital, Avista Corporation, Quinn's Hot Springs Resort, Thompson River Lumber, and schools, banks, and grocery stores.

### ***Flathead Indian Reservation Population and Demographics***

In 2010, 28,359 individuals lived within the boundaries of the Flathead Indian Reservation. Of this population, 65 percent were white, 24 percent were American Indians, and 13 percent were other ethnic groups. When compared with the other 10 reservations in Montana, the Flathead Indian Reservation has the largest population. Most of the non-Indian residents live on nontribal lands, which

make up 38 percent of the reservation. Since 1934, CSKT has been actively buying back much of the lands lost to the Tribes during the Allotment Era. Today, CSKT owns 62 percent of the reservation lands, either in fee title or through the Tribal Land Trust (CSKT 2013b).

## **PUBLIC USE OF THE REFUGE COMPLEX (LAKE AND SANDERS COUNTIES)**

Wildlife observation, photography, and hiking account for 94 percent of visits to the refuge complex (FWS 2012b). Most wildlife observers visit in the spring, summer, and fall, when the greatest numbers of migratory birds inhabit the area and the full length of the Red Sleep Mountain Drive on the Bison Range is open.

Hunting accounts for less than 1 percent of visitation to the refuge complex. The only hunting permitted is on the waterfowl production areas for waterfowl and upland gamebirds, such as ducks and pheasants. Big game hunting and trapping is permitted, but the hunting and trapping regulations of the Flathead Indian Reservation only permit tribal members to harvest big game and trap within the boundaries of their reservation.

The only units that support a viable fishery are the Bison Range, the Ninepipe Refuge, the Pablo Refuge, and three waterfowl production areas. In 2012, approximately 11,350 visitor use days were dedicated to fishing these areas. Some of the units, like Ninepipe Refuge, are popular for fishing; nevertheless, this number only accounts for 6 percent of the annual visitation.

The refuge complex has a visitor center located in its headquarters. Approximately 120,000 visitors pass through this visitor center annually. Our supervisory outdoor recreation planner develops programs, designs displays, and conducts school programs and events. We recruit two to four seasonal employees to run the visitor center, interact with visitors, and help with programs. In addition, the visitor center has a bookstore, supported by the Glacier National Park Conservancy, that generates sales, a portion of which remains at the refuge complex for visitor services programs and facilities. This organization also collects donations for refuge operations, all of which are given to the refuge complex. The Service collects an entrance fee from all visitors during the summer season. These collected fees are used for visitor services programs and facilities on the refuge complex.

We do not allow camping on the refuge complex; however, there are several privately owned campgrounds, including recreational vehicle campgrounds, in the surrounding communities. There are also several motels, restaurants, and gift shops located near the refuge complex.

### ***Visitation Levels***

Annual visitation to the refuge complex is an estimated 203,500 visitor use days, according to our counts, and is most heavily concentrated during wildlife-viewing seasons, spring through fall. According to the Banking on Nature Report (Carver 2013), 83 percent of visitors are non-residents.

## **BASELINE ECONOMIC ACTIVITY**

The refuge complex affects the economy through the resident and nonresident visitor spending it generates, the employment it supports, and the value it adds to surrounding property values.

The refuge complex employs nine full-time equivalent employees and 4–6 seasonal employees, with a payroll of \$495,887, excluding benefits. Using the Bureau of Labor Statistics Consumer Expenditure Survey data for individuals in these income categories, roughly 79 percent of annual income is spent locally. Under this assumption, the refuge complex contributes \$391,750 to the local economy in employee spending.

Visitors to the refuge complex, particularly nonresidents, contribute significantly to the State and local economy. It is estimated that nonresidents spend an average of \$133.72 per day while residents who travel more than 50 miles spend \$32.55 per day (personal communication, Kara Grau, Assistant Director of Economic Analysis, University of Montana, March 4, 2013). Based on these figures, it is estimated that visitors to the refuge complex contribute approximately 18 million dollars to the State and local tourism economy. These expenditures primarily include food, gas, transportation, souvenirs, lodging, and associated supplies.

In addition, the presence of these refuge units adds value to neighboring and surrounding landowners. The presence of natural areas like wildlife refuges near residential areas is a desirable trait for most buyers, particularly in Montana. The presence of the refuge complex adds value to the associated communities and private lands.



# CHAPTER 7

## Environmental Consequences of the Proposed Action and Alternatives

This chapter describes the potential environmental consequences of implementing the no-action alternative and the four AFA alternatives. It is organized by resource topics described in chapter 6. These include habitat management; wildlife management; research, inventory, and monitoring; visitor services; cultural resources; operations; and socioeconomics.

Resource topics that were excluded from further consideration are physical environment, and special management areas. These resources would not be affected by any of the proposed alternatives and were dismissed from further consideration. Likewise, none of the proposed alternatives would:

- affect State, tribal, or local laws imposed for the protection of the environment;
- result in the use, storage, release or disposal of hazardous substances;
- cause changes in the function of the surrounding community;
- cause disproportionate impacts to minority or low-income populations;
- affect culturally valued properties; or impact wetlands or other sensitive habitats.

According to the Council on Environmental Quality regulations, NEPA directs us to study effects that affect the human environment, as described below (Section 1508.14 Human Environment):

‘Human environment’ shall be interpreted comprehensively to include the natural and physical environment and the relationship of people with that environment. This means that economic or social effects are not intended by themselves to require preparation of an environmental impact statement. When an environmental impact statement is prepared and economic or social and natural or physical environmental effects are interrelated, then the environmental impact statement will discuss all of these effects on the human environment.

Potential cumulative effects of past, present, or reasonably foreseeable actions are described at the end of this chapter.

## 7.1 Analysis Approach

Resource impacts are discussed in terms of the context of the intensity, duration, and type of impact. The intensity and type of impact (or “effect”) is described as negligible, minor, moderate, or major and as adverse or beneficial, defined as follows:

- **Negligible**—An adverse or beneficial effect would occur, but would be at the lowest levels of detection.
- **Minor**—The effect would be noticeable, but would be relatively small and would not affect the function or integrity of the resource.
- **Moderate**—The effect would be readily apparent and would influence the function or integrity of the resource.
- **Major**—The effect would be substantial and would result in severely adverse or exceptionally beneficial changes to the resource.

Some of the other important NEPA concepts for this analysis are defined as follows:

- **Direct Effect**—caused by the action and occurs at the same time and place
- **Indirect Effect**—caused by the action, is later in time or farther removed in distance, but is still reasonably foreseeable
- **Cumulative Effect**—the incremental effect of the action when added to other past, present, and reasonably foreseeable actions. These effects are discussed in “Section 7.10 Cumulative Effects.”
- **Reasonably Foreseeable**—reasonably foreseeable events, although still uncertain, must be probable. Those effects that are considered possible, but not probable, may be excluded from NEPA analysis.

This analysis is based on the following assumptions:

- For all AFA alternatives, the staffing and administrative structure proposed in each would be fully and successfully implemented.
- In all alternatives, increases in qualified staff would improve the ability of the refuge complex to implement programs.
- None of the proposed alternatives would result in physical impacts or disturbance to resources.
- None of the proposed alternatives would result in a change to resource management objectives, approaches, or implementation.
- Effects to the no-action alternative are based on a comparison to existing conditions (as described in chapter 6), while the effects of the proposed AFA alternatives (B through E) are compared to the no-action alternative.

The duration of impacts is also considered. In this case, all of the proposed action alternatives describe AFAs with a term of 5 years. Therefore, short-term effects are considered to be those that would occur immediately following the implementation of an AFA and up to about one year afterward. Long-term effects are considered to be those that would occur after the AFA is fully implemented, or between about two and five years (also referred to as the full term of the AFA).

## 7.2 Habitat Management

Anticipated effects of the no-action and proposed AFA alternatives on habitat management at the refuge complex are described below.

### HABITAT MANAGEMENT

Refuge habitat management efforts that may be affected by the proposed alternatives include invasive species management, prescriptive grazing, wildfire response, and water level management. Note that fire management (wildfire response) is already coordinated with CSKT under an annual operating plan; that would not change under any of the alternatives.

#### ***Alternative A***

Under the no-action alternative, the expansion of staff from current conditions would likely have moderate, indirect benefits to habitat management by increasing the number of refuge staff from 9 to 12 permanent positions and additional temporary seasonal positions. This increased professional staffing capacity would improve the ability of the refuge complex to plan and implement habitat management activities.

#### ***Alternative B***

Additional refuge staff under the proposed action would have negligible indirect benefits compared to alternative A, which would have similar levels of staff expansion and subsequent benefits to habitat management.

#### ***Alternative C***

Same as alternative B, there would be negligible indirect benefits resulting from the additional staff on the refuge, as compared to Alternative A.

#### ***Alternative D***

Same as alternative B, there would be negligible indirect benefits resulting from the additional staff on the refuge, as compared to Alternative A.

#### ***Alternative E***

Under alternative E, four additional CSKT positions and several seasonal staff would likely improve the refuge complex's ability to implement habitat management efforts at Ninepipe Refuge,

Pablo Refuge, and the district and would likely increase management capacity at the National Bison Range. Compared to alternative A, these additions would likely result in minor, indirect benefits.

## **HABITAT RESOURCES**

Habitat resources in the refuge complex generally consist of grassland communities, forest communities, riparian areas, and wetlands. These are the resources that are influenced by the habitat management efforts to meet the purposes of the refuge complex and the mission of the Refuge System. As described above, the no-action and action alternatives are likely to result in negligible to moderate indirect benefits on habitat management.

While the effects of the alternatives on habitat management can be anticipated, it is much more difficult to predict the effects of habitat management on actual habitat resources. This is because the trajectory of individual habitat resources becomes apparent over long periods of time and is influenced by a variety of interrelated biotic and abiotic factors that include precipitation, climate, wildlife populations, natural and human-caused disturbances, and refuge management actions. To attempt to predict the effects of relatively minor changes in habitat management on these resources would be speculative. For these reasons, the effects of the alternatives on habitat resources are unknown.

## **7.3 Wildlife Management**

This section describes that anticipated effects of the no-action and action alternatives on wildlife management, primarily bison, other ungulates, and general wildlife management programs.

### **WILDLIFE POPULATIONS**

The effects of any of the alternatives on actual wildlife populations, including threatened and endangered species, are unknown. For the reasons described above under the habitat resources section, it is not possible to predict the effect of relatively minor changes in habitat management resulting from refuge staffing changes on any specific population or species of wildlife that occur within the refuge complex. Bison management and big game monitoring and management are discussed further because they are specific refuge wildlife management programs that have the potential to be affected by changes in refuge staffing scenarios.

### **BISON MANAGEMENT**

The management of bison is central to the mission of the refuge complex, and is described in detail in “Section 6.3 Wildlife Management.”

#### ***Alternative A***

Under the no-action alternative, the proposed expansion of staff (converting two term position back to permanent) would have a minor, indirect benefit to bison management by increasing the number of individuals available to conduct or assist with bison management operations.



### ***Alternative B***

Additional refuge staff (primarily the CSKT wildlife refuge specialist) would have a negligible, indirect benefit to bison management, as compared to alternative A.

### ***Alternative C***

Same as alternative B—negligible indirect benefit resulting from the additional staff on the refuge.

### ***Alternative D***

Same as alternative B—negligible indirect benefit resulting from the additional staff on the refuge.

### ***Alternative E***

Same as alternative B—negligible indirect benefit resulting from the additional staff on the refuge.

## **BIG GAME MONITORING AND MANAGEMENT**

The refuge complex manages herds of elk, mule deer, white-tailed deer, bighorn sheep, and pronghorn. Big game populations are managed under our fenced animal management plan, and deceased animals are evaluated for health and disease.

### ***Alternative A***

Under alternative A, our staff would continue to monitor and manage ungulate populations. The expansion of staff capacity under this alternative, from 9 to 12 permanent staff and additional temporary seasonals, would result in moderate, indirect benefits to big game monitoring and management programs by increasing the capacity of the refuge complex to plan and implement management actions.

### ***Alternatives B through D***

Under all of the AFA alternatives, new or expanded positions would improve the capacity of the refuge complex to implement big game management efforts, resulting in negligible indirect benefits.

### ***Alternative E***

Compared to the no-action and the other AFA alternatives, alternative E would likely improve the capacity of the refuge to implement big game management efforts due to its proposed additional staff positions, resulting in minor indirect benefits.

## **7.4 Research, Inventory, and Monitoring**

Biological staff design and implement research, inventory, and monitoring programs for a variety of plant and animal resources found on the refuge complex. Some efforts are funded by, or coordinated through, outside partners, including universities, other Federal agencies, and CSKT.

### ***Alternative A***

Under the no-action alternative, our staff would continue to design and implement research, inventory, and monitoring programs. The expansion of staff under this alternative, from 9 to 12 permanent staff and additional temporary seasonals, would result in moderate, indirect benefits to research, inventory, and monitoring programs by increasing the capacity of the refuge complex to plan and implement these programs.

### ***Alternatives B through D***

The proposed changes in refuge staff and capacity under alternatives B through D would have negligible, indirect benefits on research, inventory, and monitoring programs, as compared to alternative A.

### ***Alternative E***

Under alternative E, the addition of several CSKT staff, including a district manager and a seasonal biological science technician would result in minor, indirect benefits to research, inventory, and monitoring programs, particularly those associated with wetlands.

## **7.5 Visitor Services**

Visitor services include hunting and fishing access and programs, wildlife observation and photography opportunities (including the management of the auto tour route), and environmental education and interpretation facilities and programs.

### ***Alternative A***

Under the no-action alternative, we would seek to add an outdoor recreation planner to the refuge complex staff. This increase would result in moderate, indirect benefits to visitor services because this additional staff would allow the refuge complex to be more proactive in providing visitor access and visitor services programs.

### ***Alternative B***

Under the proposed action, alternative B, several visitor services positions would transfer to CSKT, including a supervisory outdoor recreation planner (through attrition). Expanded CSKT involvement in visitor services and interpretive information is expected to benefit these programs, resulting in minor, indirect benefits to visitor services in the long term, as compared to alternative A.

### ***Alternative C***

Under alternative C, a new CSKT outdoor recreation planner would be added and four temporary seasonal park ranger positions would be transferred to CSKT. Similar to alternative B, this staff increase would result in minor, indirect benefits to visitor services.

### ***Alternatives D and E***

Under alternatives D and E, staff changes affecting visitor services would be the same as alternative C, with the same overall minor, indirect benefits.

## **7.6 Cultural Resources**

Many historical and cultural resources are inextricably linked to CSKT, and we collaborate with CSKT on most interpretation programs and clearances for infrastructure projects. In general, an AFA with CSKT would strengthen these programs and actions and our overall relationship with the Tribes.

### ***Alternative A***

Under the no-action alternative, the current level of collaboration with CSKT would continue, resulting in no effect.

### ***Alternative B***

Under the proposed action, alternative B, a stronger role for, and partnership with, CSKT would result in negligible, indirect benefits.

### ***Alternatives C, D, and E***

Under alternatives C, D, and E, a strong role for, and partnership with, CSKT would be further strengthened by additional CSKT staff (outdoor recreation planner and park rangers) who would contribute to cultural resource preservation and interpretation, resulting in minor, indirect benefits.

## **7.7 Operations**

Operations comprises the infrastructure and administrative systems that are necessary to manage and fulfill the purposes of the refuge complex. By entering into an AFA with CSKT, we seek to forge a long-term partnership for managing or assisting with the operations of the refuge complex. The proposed AFA alternatives present four different approaches to achieving this, while the proposed action (alternative B) is based on a specific AFA (see appendix A).

Distinctions between alternatives under operations stem from the number and type of staff positions proposed. Currently, the refuge complex operates with nine permanent staff, two term appointments, and several temporary seasonal employees and volunteers. Under any alternative, the number of temporary seasonal positions recruited by us or CSKT would vary each year depending on the annual budget for the refuge complex and station priorities. While there may not be a direct relationship between the number of refuge staff and effective operations, it is reasonable to assume that additional staff would, over time, improve or expand refuge complex operations.

## **Alternative A**

Under the no-action alternative, the proposed additional staff (for a total of 12 permanent and up to 6 temporary seasonal positions) would result in moderate benefits.

## **Alternative B**

Under the proposed action, alternative B, the number of permanent positions would be similar to the no-action alternative, with the addition of a GS-11 wildlife refuge specialist. This would result in minor benefits, compared to the no-action alternative.

## **Alternatives C and D**

Alternatives C and D would be similar to the no-action alternative (12 permanent and up to 7 temporary seasonal positions), resulting in negligible benefits.

## **Alternative E**

Under alternative E, additional permanent positions would be added (primarily associated with district management) for a total of 16 permanent staff positions and up to 6 temporary seasonal positions. Compared to the no-action alternative, these additions would result in moderate benefits.

# **COMPARISON OF COSTS FOR EACH ALTERNATIVE**

Table 4 summarizes the costs above current management costs for each alternative. We would provide this money to CSKT to support the positions transferred. The table shows indirect costs for the four AFA alternatives (B–E). We negotiated the indirect costs at \$5,000 per full-time employee, prorated for seasonal staff, following 25 Code of Federal Regulations 1000.138. The indirect costs vary because the number of temporary positions transferred to the Tribes would depend on annual funding; therefore, some positions may not be filled each year. When making these estimates, we assumed that all temporary positions would be filled. In addition, we used the step 6 pay scale for 2014 and included benefits estimated at 35 percent for permanent and term employees and 7.65 percent for temporary employees.

**Table 4. Additional cost estimates for each alternative when compared to current conditions.**

<i>Alternative</i>	<i>Added salary cost including benefits</i>	<i>Indirect cost</i>	<i>Total estimated added cost</i>
A	<sup>1</sup> \$75,477	None	\$75,477
B	\$91,322	<sup>2</sup> \$47,300 to \$61,800	<sup>2</sup> \$138,622 to \$153,122
C	\$75,477	<sup>2</sup> \$2,100 to \$16,600	<sup>2</sup> \$77,577 to \$92,077
D	\$75,477	<sup>2</sup> \$28,800 to \$43,300	<sup>2</sup> \$104,277 to \$118,777
E	\$296,729	<sup>2</sup> \$45,800 to \$60,300	<sup>2</sup> \$342,529 to \$357,029

<sup>1</sup> Proposal to add a GS-9 outdoor recreation planner to current staff.

<sup>2</sup> Range accounts for from two to seven seasonal positions filled.

## 7.8 Socioeconomics

This socioeconomic analysis is based on various factors that may influence the location and magnitude of potential socioeconomic effects. These factors include:

- the location of and access to the refuge;
- the likely residence area for people working at the refuge (existing residents or any in-migrating employees);
- the rate and magnitude of in-migration, if any (which will be influenced by the availability of a trained or trainable local workforce);
- the rate and magnitude of population and employee turnover, if any (including student population turnover in schools, employee turnover, and employee turnover from existing jobs to employment at the refuge);
- the availability and location of existing housing and potential housing and the capacity and condition of existing local services and facilities;
- the people directly and indirectly affected economically by the proposed action, such as from wages and taxes.

The socioeconomic effects for the no-action alternative and the AFA alternatives were evaluated within the above context. The impacts for all of the alternatives would be relatively the same, so the discussion of alternatives A through E have been combined. Costs associated with each of the alternatives are discussed separately in “Section 7.7 Refuge Complex Operations.”

### POPULATION AND DEMOGRAPHICS

Under all the alternatives, existing patterns and trends would continue to drive the social structure and economy of the area. There would be no effect to either the population trends in, or demographics of, Lake and Sanders Counties. Likewise, none of the alternatives would result in disproportionately high and adverse human health or environmental effects on a minority population, low-income population, or Native American tribe.

### EMPLOYMENT AND INCOME EFFECTS

The potential employment and labor income effects from the alternatives is shown in table 5. Employment for alternatives A through D would result in one new job with an annual labor income of \$75,477. Alternative B would result in an annual labor income of \$91,322. Alternative E would result in five new jobs with a total annual labor income of \$296,729. On a per-job basis, direct annual labor income for alternative E would range from \$39,854 to \$75,477. For all alternatives, regional or national economic conditions could cause refuge operations to be curtailed or shut down at any point, particularly affecting the funding for temporary seasonal positions.

**Table 5. Alternative Employment and Annual Labor Income Estimates**

<i>Employment, labor income</i>	<i>Alternative A</i>	<i>Alternative B</i>	<i>Alternative C</i>	<i>Alternative D</i>	<i>Alternative E</i>
Direct employment	1 – Outdoor recreation planner	1 – Wildlife refuge specialist	1 – Outdoor recreation planner	1 – Outdoor recreation planner	5 – Outdoor recreation planner, biological science tech., district manager, two maintenance workers
Direct annual labor income	\$75,477	\$91,322	\$75,477	\$75,477	\$296,729

## ECONOMIC ACTIVITY EFFECTS

While any new positions would be beneficial for the employed individuals and their families, the overall effect of any of the alternatives on community-wide employment and economic activity would be limited. Using the Bureau of Labor Statistics Consumer Expenditure Survey data for individuals with the above income estimates, roughly 79 percent of annual income would be spent locally. Under this assumption, alternatives A, C, and D would contribute \$59,627 to the local economy in employee spending. Alternative B would contribute \$72,144 to the local economy in employee spending, while alternative E would contribute \$234,416. This additional economic activity generated in alternative E would result in minor benefits, compared to negligible benefits under alternatives A through D.

## COMMUNITY EFFECTS

Given the nature of the employment effects under all alternatives, there is unlikely to be any in-migrating population. Therefore, local governments would not likely experience the need to serve a fluctuating population. There would be no effect to specific local governmental units within Lake and Sanders Counties due to in-migrating workers. Community fire, emergency, medical, and social service providers would not likely see any need to adjust their staffs, as there would be no increases in service demands associated with any of the alternatives. Alternatives A through E would not add to population and housing demand pressures and would not increase costs for cities, schools, and counties through refuge-related in-migration and resulting increases in local government service costs.

## 7.9 Summary of Environmental Consequences

Environmental consequences of the no-action and the AFA alternatives are summarized in table 6.

**Table 6. Summary of environmental consequences.**

<i>Resource topic</i>	<i>Alternative A</i>	<i>Alternative B</i>	<i>Alternative C</i>	<i>Alternative D</i>	<i>Alternative E</i>
Habitat management	Moderate benefits	Negligible benefits	Negligible benefits	Negligible benefits	Minor benefits

**Table 6. Summary of environmental consequences.**

<i>Resource topic</i>	<i>Alternative A</i>	<i>Alternative B</i>	<i>Alternative C</i>	<i>Alternative D</i>	<i>Alternative E</i>
Habitat resources	Unknown	Unknown	Unknown	Unknown	Unknown
Wildlife populations	Unknown	Unknown	Unknown	Unknown	Unknown
Bison management	Minor benefits	Negligible benefits	Negligible benefits	Negligible benefits	Negligible benefits
Big game monitoring and management	Moderate benefits	Negligible benefits	Negligible benefits	Negligible benefits	Minor benefits
Research, inventory, and monitoring	Moderate benefits	Negligible benefits	Negligible benefits	Negligible benefits	Minor benefits
Visitor services	Moderate benefits	Minor benefits	Minor benefits	Minor benefits	Minor benefits
Cultural resources	No effect	Negligible benefits	Minor benefits	Minor benefits	Minor benefits
Refuge operations	Moderate benefits	Minor benefits	Negligible benefits	Negligible benefits	Moderate benefits
Socioeconomics	Negligible benefits	Negligible benefits	Negligible benefits	Negligible benefits	Minor benefits

## Cumulative Effects

Cumulative effects are defined in the Council on Environmental Quality regulations as “the impact on the environment which results from the incremental impact of the action when added to other past, present, and reasonably foreseeable future actions regardless of what agency or person undertakes such actions” (40 Code of Federal Regulation § 1508.7). Cumulative effects can result from individually minor, but collectively significant, actions taking place over a period of time. This section analyzes cumulative effects of the alternatives when combined with the effects of other relevant past, present, and reasonably foreseeable future activities.

## REASONABLY FORESEEABLE ACTIONS

Reasonably foreseeable future activities are actions and activities that are independent of the action alternatives, but could result in cumulative effects when combined with the effects of the alternatives. These activities are anticipated to occur regardless of which alternative is selected. Reasonably foreseeable future actions that could potentially result in cumulative effects include the following, and are described below:

- **CSKT Water Compact**—For many years, the CSKT, the State of Montana, and the United States Government negotiated a proposed water rights settlement compact. The compact quantifies the tribe’s water rights and sets forth the conditions on their use, provides water for the Tribes for existing and future tribal water needs (both consumptive and instream flow) to settle the Tribes’ claims to reserved water rights, protects all current water users non-irrigation

rights from the Tribes' exercise of their senior water rights, and protects on-reservation irrigators. (Montana Department of Natural Resources and Conservation 2013). The proposed compact is expected to be submitted for approval during the 2015 Montana legislative session (Missoulain 2013).

- **CSKT Wetland Enhancement Projects**—Consistent with the CSKT Fish and Wildlife Implementation Strategy (2000) and the Habitat Acquisition and Restoration Plan (2000), the CSKT has completed, or has plans to complete, multiple projects to restore and enhance prairie pothole wetland habitat. Completion of these projects is expected to increase the size and quality of wetland habitat on CSKT lands, several of which are in close proximity to Ninepipe Refuge and other units managed by the Service (CSKT 2009).
- **Land Buy-Back Program for Tribal Nations**—In 2012, the U.S. Department of the Interior published a plan to use funds from the Cobell Settlement Agreement to acquire and consolidate fractional land interests in trust for the beneficial use of tribal nations. Fractional lands are those tribal trust lands with more than one landowner, some as high as 200 owners of a single 5-acre parcel. Under this program, interested individual owners of fractional land interests would receive payments for voluntarily selling their land. As outlined in the implementation plan, there are 696 fractionated tracts with purchasable interests in the defined CSKT region, comprising over 25,000 acres. Successful acquisition, consolidation, and use of many of these fractional land interests could result in economic, community, or resource benefits for the CSKT and the region. However, the extent and nature of these benefits are uncertain and depend on the location, extent, cost, and ultimate use of the affected land interests (DOI 2013).

## CUMULATIVE EFFECTS OF THE PROPOSED AFA ALTERNATIVES

The potential cumulative effects of the proposed AFA alternatives, when combined with the effects of past, present, and reasonably foreseeable future actions, are described below. Resources with no cumulative effects are not discussed further.

## CUMULATIVE EFFECTS ON WILDLIFE AND HABITAT MANAGEMENT

The ongoing restoration and enhancement of wetlands and other habitat types by CSKT would be beneficial to the overall abundance and function of wetland habitats and the wildlife species that depend on them. While ongoing or improved management of these habitats within the refuge complex would generally benefit these regional wetland systems, the cumulative effect of the no-action and proposed AFA alternatives are not known.

Implementation of the proposed CSKT Water Compact is not anticipated to result in a direct or cumulative effect on the management and availability of water for wetland habitats within the refuge complex, particularly in the district. However, the CSKT wetland enhancement projects could provide an opportunity for cumulative benefits to wetland management and associated wildlife habitat when combined with AFA alternatives that improve coordination with CSKT, particularly for alternative E, which would have a CSKT employee who could coordinate water management for Ninepipe and Pablo reservoirs.



## **CUMULATIVE EFFECTS ON SOCIOECONOMICS**

In addition to the proposed AFA, the Land Buy-Back Program for Tribal Nations would affect Lake and Sanders Counties. Successful consolidation and use of fractional tribal trust land interests could result in economic and community benefits. However, the extent and nature of these benefits is uncertain and are not expected to lead to major developments in the reasonably foreseeable future. Under any likely situation, each alternative is not expected to have any cumulative effect on employment, income, population, or demand for public services in Lake or Sanders Counties.



# CHAPTER 8

## Agency Coordination

We worked with CSKT to develop the draft AFA (alternative B). We also consulted with CSKT on the sections in this document related to tribal history and culture. We kept the Tribes apprised of how the planning process was proceeding and gave them copies of the public scoping comments. CSKT also participated in the internal review along with several other Service staff. These internal review comments were considered and incorporated into this public document, as appropriate. We also consulted with our regional office in Lakewood, Colorado, and headquarters office in Washington, DC, to gather information and get clarification on various sections of this document.



# **APPENDIX A**

## **Draft Annual Funding Agreement**



**FISCAL YEARS 2013–2016 ANNUAL FUNDING AGREEMENT  
BETWEEN THE  
UNITED STATES DEPARTMENT OF THE INTERIOR  
FISH AND WILDLIFE SERVICE  
AND THE  
CONFEDERATED SALISH AND KOOTENAI TRIBES  
OF THE FLATHEAD RESERVATION**

March 8, 2012 draft reflecting technical corrections through April 12, 2012

**Section 1. Nature of Document, Parties**

This is an annual funding agreement (“AFA”) between the United States Fish and Wildlife Service (“Service”, or “FWS”), a bureau of the United States Department of the Interior (“Department”), and the Confederated Salish and Kootenai Tribes of the Flathead Indian Reservation (“CSKT”) (hereinafter referred to collectively as the “Parties”). The CSKT is a Federally-recognized Indian Tribe represented by its Tribal Council, participating in the Tribal Self-Governance Program established by the Secretary of the Interior (“Secretary”) under the Indian Self-Determination and Education Assistance Act (“ISDEAA”), 25 U.S.C. §§ 450-450n, as amended by § 204 of the Tribal Self-Governance Act of 1994 (“TSGA”), now codified at 25 U.S.C. §§ 458aa-458hh,

The Parties will work together, and the CSKT will perform each Activity covered by this AFA, to ensure that the National Bison Range Complex (“NBRC”) is managed as part of the National Wildlife Refuge System (“NWRS”) and consistent with: the National Wildlife Refuge System Administration Act (“NWRSA”), 16 U.S.C. §§ 668dd and 668ee, as amended; NWRS regulations found at 50 C.F.R. Chapter 1, Subchapter C; the policies of the Service as found in the Service Manual and Refuge Manual; and the Operational Standards provided by Service line officers responsible for administration of the NWRS within the Mountain-Prairie Region (Region 6) of the Service.

**Section 2. Purpose**

*A. Recognize Partnership; Fund and Perform Activities.* The purpose of this AFA is to recognize and formalize the partnership between the Service and the CSKT in operating and maintaining all programs of the NBRC. The Parties are committed to a partnership that: 1) is an on-the-ground partnership with Service and CSKT Employees working together on the NBRC to accomplish common goals and objectives to benefit wildlife, habitat and people; 2) provides the CSKT with a substantive role in the day-to-day operations and maintenance of programs of the NBRC under overall administration and management by the Service, thereby furthering Federal Tribal Self-Governance policy; and 3) leverages the complementary resources and abilities of the Parties to manage the NBRC as a unit of the NWRS, and better serve the natural resources of the NBRC, the people of the CSKT, and all Americans. This partnership facilitates achievement of Departmental and Congressional objectives for both its NWRS and Tribal Self-Governance programs. This AFA establishes the responsibilities of the Parties and the terms and conditions

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*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 1 of 38*



under which the Service will fund and the CSKT will perform programs, services, functions, and activities, or portions thereof (Activities) at the NBRC. The Secretary has identified some of the programs which may be eligible for inclusion in an AFA at the NBRC in the list published in the Federal Register at 76 F.R. 57068 (September 15, 2011).

*B. Recognize and Further Relationship; Significance.* This AFA recognizes and furthers: 1) the government-to-government relationship that exists between the Federal government and the recognized Indian Tribes of the United States generally, and the CSKT specifically; and 2) the special geographic, historical, and cultural significance to the CSKT of the NBRC, including CSKT's ownership of the land upon which the Ninepipe and Pablo National Wildlife Refuges are located.

*C. Benefits to the Parties:*

1. The Service benefits from this AFA because it:

- a. furthers the mission of the Service which is: "Working with Others to conserve, protect, and enhance fish, wildlife, plants and their habitat for the continuing benefit of the American people";
- b. helps the Service achieve both the mission of the NWRS and the intent of Congress in the National Wildlife Refuge System Improvement Act of 1997, which states at Section 5(a)(4)(E):

"In administering the System, the Secretary shall . . . -

ensure effective coordination, interaction, and cooperation with owners of land adjoining refuges and the fish and wildlife agency of the States in which units of the System are located";

- c. helps the Service comply with Executive Order 12996 ("Management and General Public Use of the National Wildlife Refuge System"), which establishes Guiding Principles for management of the System, including:

"Partnerships. America's sportsmen and women were the first partners who insisted on protecting valuable wildlife habitat within wildlife refuges. Conservation partnerships with other Federal agencies, State agencies, Tribes, organizations, industry and the general public can make significant contributions to the growth and management of the Refuge System."

- d. improves the ability of the NBRC to discharge its responsibilities to protect the cultural resources of the NBRC, through close collaboration with the Native people in whose homeland the NBRC is located;





- e. provides the Service with closer cooperation with its professional peers employed by the CSKT Division of Fish, Wildlife, Conservation and Recreation, who have extensive scientific knowledge, significant traditional ecological knowledge, and a long and successful history of conserving, managing, and restoring the fish, wildlife, and habitat resources of the Flathead Reservation; and
  - f. furthers and supports the Department's statutory responsibility under the Tribal Self-Governance Act, and the policy of the United States regarding Tribal Self-Governance. This participation fulfills Congressional and Departmental objectives as set forth in 25 C.F.R. §§ 1000.4(b) and (c).
2. The CSKT benefits from this AFA because the agreement:
- a. provides Tribal participation in Federal programs within the exterior boundaries of the Flathead Indian Reservation, consistent with the Tribal Self-Governance Act (25 U.S.C. §§ 458cc-458hh), and House Report No. 103-653 (page 10 of which stated that the House Natural Resources Committee intends the Self-Governance legislation "to ensure that any federal activity carried out by the [Interior] Secretary within the exterior boundaries of the reservation shall be presumptively eligible for inclusion in the Self-Governance funding agreement.");
  - b. provides CSKT with the ability to more effectively help the Service manage Refuge lands which CSKT beneficially owns (Ninepipe and Pablo National Wildlife Refuges), as well as lands adjoining the National Bison Range which CSKT owns either beneficially or in fee;
  - c. better enables CSKT to holistically address natural resources management issues on its Reservation, due to the NBRC's central location within the Reservation;
  - d. improves CSKT's ability to help protect the cultural resources of the NBRC, through closer collaboration with the Service;
  - e. improves upon CSKT's history of, and ongoing commitment to, assisting the Service with fire suppression and fire management issues at the NBRC; and
  - f. furthers Tribal capacity-building with respect to Reservation natural resources management, consistent with Federal objectives for the Tribal Self-Governance program.

### **Section 3. Authority, Interpretation and Compliance**

#### **A. Authority.** This AFA is authorized by:

1. Title IV of the ISDEAA, 25 U.S.C. §§ 458aa-hh, as amended by Section 204 of the TSGA, as amended;
2. Section 403(c) of the Tribal Self-Governance Act, codified at 25 U.S.C. § 458cc(c), which authorizes tribal contracting of Interior programs, services, functions or activities which are of special geographical, historical, or cultural significance to a tribe; and
3. Section 403(i)(1) of the Tribal Self-Governance Act, 25 U.S.C. § 458cc(i)(1), which, except as otherwise provided by law, requires the Secretary to interpret each Federal law,

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*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 3 of 38*





including the NWRSA, as amended, and each Federal regulation in a manner that will facilitate the inclusion of programs, services, functions, and activities in an AFA and the implementation of an AFA.

*B. Interpretation.* This AFA shall be interpreted consistent with applicable Federal laws and regulations including Title IV of the ISDEAA and the Tribal Self-Governance Regulations, and as provided below in this AFA in Sections 3.C (Compliance); Section 19.C (Tribal Administrative Procedures); and Section 19.D (Indian Preference).

*C. Compliance.* In conducting any Activity covered by this AFA, the CSKT will comply with all applicable Federal and Tribal laws and regulations, and all Departmental and Service Operational Standards guiding the management of the NWR. This provision is not intended to expand the applicability of any Federal or Tribal law or regulation. In case of any conflict between a Federal law or regulation and a Tribal law or regulation, Federal law will govern.

#### **Section 4. Definitions**

The following terms and their derivatives have the meanings specified within this Section:

*Activity*, when capitalized, means a program, service, function, activity, or portion thereof, which the Service agrees to fund and the CSKT agrees to perform under this AFA.

*AFA* means an annual funding agreement, including all recited attachments, under Title IV of the Indian Self-Determination and Education Assistance Act ("Act").

*Affected Federal Employee* means a career or career-conditional Service employee at the NBRC:

- A. Who was employed by the Service to perform an Activity as of the date of the last approving signature on this AFA; and
- B. Whose duties are contracted by CSKT under this AFA.

*Chairman* means the Chairman of the CSKT Tribal Council.

*CSKT Employee* means a person employed by the CSKT to perform an Activity, including a Service employee assigned to work for CSKT under an Intergovernmental Personnel Act ("IPA") assignment.

*IPA* means Intergovernmental Personnel Act, codified at 5 U.S.C. §§ 3371-76.

*IPA Employee* means any Service employee assigned to work for CSKT through an IPA agreement.



*National Bison Range* means the unit of the National Wildlife Refuge System authorized by Congress in Chapter 192 of the Act of May 23, 1908, at 35 Stat. 267.

*National Bison Range Complex*, or *NBRC*, includes the following units of the National Wildlife Refuge System: National Bison Range, Ninepipe National Wildlife Refuge, Pablo National Wildlife Refuge, and the Northwest Montana Wetland Management District in Lake County.

*Ninepipe National Wildlife Refuge* means the unit of the National Wildlife Refuge System established by the President of the United States by Executive Order 3504 on June 25, 1921.

*Operational Standard* means a requirement of a law, regulation, written policy, approved written plan, or published Service standard, whether or not existing on the date of execution of this AFA, that governs the performance of an Activity, and which the Service would have to meet if the Service itself performed the Activity.

*Pablo National Wildlife Refuge* means the unit of the National Wildlife Refuge System established by the President of the United States by Executive Order 3503 on June 25, 1921.

*Plan*: see “*Work Plan*”

*RAPP* means Refuge Annual Performance Plan, a database reporting system that forecasts planned, and reports actual, accomplishments for each unit of the National Wildlife Refuge System for each fiscal year.

*Refuge Leadership Team* means the following team of officials: FWS Refuge Manager; FWS Deputy Refuge Manager; Manager of the CSKT Division of Fish, Wildlife, Recreation & Conservation; and the CSKT Wildlife Refuge Specialist.

*Refuge Manager* means the FWS line officer in charge of the National Bison Range Complex.

*Refuge Supervisor* means the FWS line officer, located in the Mountain and Prairie Regional Office, with direct supervisory authority over the Refuge Manager.

*Region* or *Region 6* means the Mountain and Prairie Region of the U.S. Fish and Wildlife Service, which includes the states of Montana, Wyoming, Utah, Colorado, Kansas, Nebraska, South Dakota and North Dakota.

*Regional Director* means the Director of the Mountain and Prairie Region, U.S. Fish and Wildlife Service.

*Secretary* means the Secretary of the Interior or her or his authorized representative.

*Volunteer* means any person who performs work at the NBRC with no, or only nominal, pay, benefits, or other commonly accepted attribute of employment.

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*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 5 of 38*



*Work Plan or Plan* means the jointly-developed and mutually-agreed upon document that identifies the work and projects to be performed to accomplish each Activity for each fiscal year.

#### **Section 5. Physical Area Covered**

The physical area covered by this AFA consists of those parts of the NBRC that lie entirely within the boundaries of the Flathead Indian Reservation. Specifically, the NBRC consists of the following units of the NWRS:

- A. National Bison Range (Org. Code 61540);
- B. Ninepipe National Wildlife Refuge (Org. Code 61541);
- C. Pablo National Wildlife Refuge (Org. Code 61542); and
- D. Northwest Montana Wetland Management District in Lake County (Org Code 61544).

As of April 1, 2012, the NBRC Refuge Manager will also administer the following units of the NWRS as part of the NBRC. This AFA does not include any programs located on these units:

- Lost Trail National Wildlife Refuge (Org. Code 61545); and
- Northwest Montana Wetland Management District in Flathead County (Org. Code 61546)

#### **Section 6. Activities Covered**

*A. Five Categories.* The CSKT will perform Activities in five categories:

1. Management of Contracted Activities. CSKT shall contract a new Wildlife Refuge Specialist position to oversee Activities contracted under this AFA. The Service shall retain the Refuge Manager and Deputy Refuge Manager positions, and their associated activities, subject to this AFA;
2. Biological Program (including Habitat Management);
3. Fire Program;
4. Maintenance Program; and
5. Visitor Services Program, including all Activities except: environmental education, cooperating association oversight, and Volunteer coordination activities.

The Activities in the above five categories will be more fully described in the Work Plan as set forth in Section 7.E below.

*B. Redesign and Reallocation.* In accordance with 25 U.S.C. § 458cc(b)(3), CSKT may redesign any Activity or reallocate funding between Activities with the prior written approval of, and subject to any conditions imposed by, the Refuge Manager.





*C. Activities Retained by the Service.* The Service retains all activities not explicitly covered by this AFA. Subsequent AFAs may include some of these retained activities. The Service will negotiate with the CSKT in good faith to explore and implement opportunities for adding activities to subsequent AFAs.

*D. Absence of Activity from AFA.* The absence from this AFA of any activity at the NBRC is not intended to denote or imply that the activity is, or is not, an inherently Federal function within the meaning of Section 403k of the Act, codified at 25 U.S.C. § 458cc(k), and does not preclude negotiation by the Parties for inclusion of additional non-inherently-Federal activities in a subsequent AFA.

#### **Section 7. Management, Direction, and Control**

*A. CSKT.* Subject to the final authority of the Refuge Manager, the CSKT will perform the Activities contracted under this AFA.

*B. Refuge Manager.* The Refuge Manager will retain final responsibility and authority for managing, directing, controlling and administering the operation of the NBRC. The Deputy Refuge Manager, in accordance with Service policy (030 FW 1.9.D), exercises all authority delegated to the Refuge Manager that is not restricted to the Refuge Manager. This authority will be exercised in a collaborative fashion, with full and objective consideration of CSKT recommendations, through the work of the Refuge Leadership Team (see Section 7.D, below). The Refuge Manager (or, consistent with 030 FW 1.9.D, the Deputy Refuge Manager) shall retain sole and final authority with respect to the following actions for the NBRC:

1. Setting work priorities through the NBRC Work Plan;
2. Approval of any uses of the NBRC by third parties, including secondary uses and economic uses;
3. Signature authority for Appropriate Use Determinations and Compatibility Determinations;
4. Signature authority for Special Use Permits;
5. Expenditure of Federal funds allocated to the NBRC, but not transferred to the CSKT under this AFA;
6. Supervision of Service personnel performing activities retained by the Service;
7. Establishment or modification of regulations for public use that can be accomplished at the field level under 50 C.F.R. Chapter 1, Subchapter C;
8. Final field-level approval of: environmental compliance documents (including NEPA and Intra-Service Section 7 consultations required by the Endangered Species Act) and refuge management plans, including: Comprehensive Conservation Plans; step-down management plans; prescribed fire burn plans and GO/ NO GO checklists;
9. Final field-level approval of: emergency operations documents, including Delegations of Authority and Return of Delegated Authority letters associated with incident management and investigation team activities; Wildland Fire Situation Analysis; and Wildland Fire Cost Share agreements;

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*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 7 of 38*



10. Final field-level approval of implementation of any actions concerning necessary security issues and concerns; and
11. Any action which is an inherently Federal function.

C. Wildlife Refuge Specialist.

1. The CSKT Wildlife Refuge Specialist will:

- a. Supervise all CSKT Employees and direct the day-to-day work of CSKT Employees and Volunteers in the Biological, Maintenance, and Fire Programs and those Activities of the Visitor Services Program that are the responsibility of the CSKT. In the absence of the CSKT Wildlife Refuge Specialist, a CSKT-designated official will provide day-to-day direction to CSKT Employees and Volunteers. Personnel actions for Service employees assigned to CSKT, including management of performance and conduct, will be handled in accordance with AFA Sections 13.B.1, 13.F.5.c, and 13.G;
- b. From the pool of qualified applicants, select Volunteers to work in Activities for which the CSKT is responsible; and
- c. Perform additional specific duties as negotiated by the Refuge Leadership Team.

D. *Refuge Leadership Team*: Subject to the final authority of the Refuge Manager, the Parties will collaborate in the management of the NBRC through the Refuge Leadership Team.

1. The Refuge Leadership Team shall be comprised of the following officials:

- a. Refuge Manager;
  - b. Manager of the CSKT Division of Fish, Wildlife, Recreation & Conservation, Natural Resources Department (or designee);
  - c. Deputy Refuge Manager; and
  - d. CSKT Wildlife Refuge Specialist
2. Subject to the final authority of the Refuge Manager, the Refuge Leadership Team will jointly write the Work Plan, set work priorities, and prepare the periodic status reports required under Section 12.C and all other reports required by this AFA or by Service Operational Standards.
3. The Parties recognize that it is impossible to include in the Work Plan every detail and decision necessary to achieve NBRC goals and objectives. The Refuge Leadership Team will meet as needed.
4. The Refuge Leadership Team and the CSKT Tribal Council shall meet at least quarterly to discuss the performance of both Parties under this AFA. The Refuge Supervisor shall meet with the Tribal Council at least twice a year unless otherwise



agreed to by the parties. At least once a year, the Regional Director will meet with the Tribal Council.

5. The Parties expect the Refuge Leadership Team to work in a cooperative, collaborative and consultative process. The Refuge Leadership Team will develop and use consensus decision-making in all of its work together. If the Refuge Leadership Team cannot reach consensus, the decision of the Refuge Manager will prevail. The Manager of the CSKT Division of Fish, Wildlife, Recreation & Conservation can invoke the dispute resolution process in Section 20.A if the Refuge Manager has decided not to accept a CSKT recommendation and, upon request, has failed to provide a reasonable explanation for the decision, and the CSKT believes the Refuge Manager's decision is arbitrary or capricious. Upon mutual agreement, the Parties may also utilize the dispute resolution procedures for any other issue.

E. *Work Plan (Plan).*

1. The Service and CSKT will work jointly to develop and establish a mutually agreed-upon Plan, to be amended as necessary to reflect current needs, priorities and available resources. The Plan shall include Activities to be performed taking into account the resources which the Service is providing CSKT. The Refuge Manager will order, or memorialize in writing within a reasonable amount of time, any significant change or reduction in CSKT duties under the Plan. The Refuge Manager shall prioritize Plan activities according to available resources.
2. *Work Plan Preparation.* The Parties will jointly develop the Work Plan. The Refuge Leadership Team will prepare the Plan as a narrative document to accompany the annual submission of the NBRC RAPP. Each fiscal year, typically in the August – September time frame, the Service will provide the NBRC with a budget forecast for the following fiscal year. Based on that budget forecast, the Refuge Leadership Team will prepare the RAPP, reporting accomplishments for the current fiscal year, and planning accomplishments for the next. While the RAPP itself is a database and is not conducive to communicating planned work to the staff, the RAPP Workbook provides a foundation for the Plan. The Refuge Leadership Team will further develop information from the RAPP Workbook into the Plan. In concise narrative format, the Plan will describe the routine, on-going and project-specific work to be accomplished in the following fiscal year. It will establish priorities, project completion dates, and any quality requirements for work, and will assign responsibilities for accomplishing work to individuals and teams of CSKT and Service employees. The Plan will include all significant planned work in the areas of wildlife monitoring, habitat management, facility and equipment maintenance and construction, and visitor services.

F. *Safety.* Nothing in this AFA shall be interpreted as restricting the authority of any employee (federal or tribal) to take immediate steps to address any safety concerns.

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*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 9 of 38*





## **Section 8. Fire Program Guidance**

*A. Responsibility & Intent.* CSKT responsibility for the contracted Fire Program at NBRC will be managed through the CSKT Fire Program in coordination with the Service's District and Zone Fire Management Officers, and the Refuge Manager, under the approved Fire Management Plan for the NBRC. It is the Parties' intent to integrate fire management on Refuge System lands within the Flathead Indian Reservation into CSKT's highly skilled professional wildland fire management program.

*B. Meetings & Coordination.* The Parties agree to hold planning meetings at least twice a year (usually pre- and post-fire season) to coordinate NBRC fire program operations, assess needs, and schedule projects.

*C. Fuels Treatments & Prescribed Fire.* The Parties agree that CSKT will perform prescriptive work to the extent funds are available under the AFA or from other sources.

1. The Service will recommend fuels projects and plan for them 2-5 years out.
2. CSKT will develop and submit project requests and data entry to the National Fire Plan Operating and Reporting System (NFPORS) to compete for, and receive, National Fire Plan funding.
3. CSKT will perform planning, including writing of burn plans.
4. CSKT will perform pre- and post-burn monitoring to its standard, with the exception of monitoring in the grasslands which will be done by the Service.
5. National Environmental Policy Act (NEPA) requirements for fire projects will be the responsibility of the Service.
6. Smoke management requirements will be the responsibility of the CSKT.
7. CSKT will get credit for acreage in NFPORS but the Service will enter reports into Fire Management Information System (FMIS) for Service requirements.
8. CSKT will notify the Service of any impending project/burn and the GO/NO GO decision will be signed by the Service's NBRC Agency Administrator (Refuge Manager).

### *D. Wildfire Suppression & Initial Attack*

1. The CSKT will provide Initial Attack (IA) to the NBRC as it does on all Tribal land. This does not preclude Incident Qualification Certification System (IQCS)-qualified Service firefighters from conducting IA activities on Service lands.
2. The CSKT will open a Firecode for all IA fires.
3. The CSKT will input all fires into the Wildland Fire Decision Support System (WFDSS). The Service will provide a profile for CSKT to access WFDSS for the NBRC.



4. The CSKT, with the Refuge Manager's concurrence, will provide all support for extended attack and large fire operations.
5. The CSKT will generate a fire report for any fire and submit it to the Service within 10 days of the fire being declared out. The Service will enter a fire report into FMIS.
6. The Parties will coordinate in preparing Severity requests. Generally, CSKT's Severity requests will include coverage of the NBRC. The Service will make the request for any Severity resources to specifically be stationed on the NBRC.

#### *E. Preparedness*

1. The Service will provide the equivalent dollar amount of 0.25 FTE of a GS-7 salary to be used by the CSKT to support the Service's fire preparedness program.
2. The CSKT will administer IQCS for CSKT Employees (excluding Federal employees assigned to CSKT under an IPA agreement). The Service will do the same for Federal employees, including those assigned to CSKT under an IPA agreement.
3. The Service will pay for fire training as needed for Service employees and CSKT Employees. Local or in-house training will be complimentary.
4. The Service will status Service employees in the Resource Ordering Supply System (ROSS).
5. The six man fire cache at the NBRC will be maintained by the Service.
6. The fire engine at the NBRC will be maintained by the Service.
7. Fire Program Analysis (FPA) tasks will be a joint effort as the NBRC and the CSKT are in the same Fire Planning Unit (FPU).

### **Section 9. Healthy and Safe Workplace**

#### *A. Zero Tolerance for Discrimination and Harassment*

1. The Parties are committed to providing a healthy work environment free from discrimination, retaliation and harassment of any type based upon race, color, national origin, sex, age, mental or physical disability, or sexual orientation. It is the policy of the Service and the CSKT that discrimination, harassment, and retaliation in any of their various forms will not be tolerated at the NBRC. The Refuge Leadership Team is responsible for ensuring that this zero tolerance policy is enforced.
2. Employees of both Parties are required to treat all other people in the workplace with dignity and respect, including Service and CSKT Employees, Volunteers, and third parties.
3. All members of the Refuge Leadership Team will foster a work environment that facilitates communication within the Service/CSKT partnership. They will all maintain an "open door" policy allowing employees and Volunteers of either Party to





have reasonable access to them to express any concerns about the work environment, or report any allegations of discrimination or harassment.

4. Once reported, any allegations of discrimination or harassment shall become a top priority for investigation and resolution by the Refuge Leadership Team. Any investigation will be conducted jointly by a Service and CSKT member of the Refuge Leadership Team. It shall be the responsibility of the Refuge Leadership Team to jointly resolve any allegations or incidents that occur, with the assistance of Service and CSKT Human Resources personnel, as appropriate, and either take corrective action or refer the allegations or incidents to higher authorities within the Parties, as appropriate.
  5. Within ten working days of any report of discrimination or harassment, the Refuge Manager and CSKT Wildlife Refuge Specialist will make a joint written report to the Refuge Supervisor and the CSKT Natural Resources Department Head. This report shall include the facts, including: the allegation(s) raised; the Refuge Leadership Team's assessment of the allegation(s); and its assessment of whether the allegation(s) or incident can be resolved and appropriate action taken at the field level.
  6. Any incidents or threats of physical violence must be reported to Service and CSKT leadership immediately, by the most expeditious means available.
  7. Not less than annually, the Parties will provide jointly agreed-upon training to all NBRC employees to foster a workplace free of discrimination and harassment. Topics of these trainings may include, but are not limited to: cultural awareness; team building; and communications skills.
  8. Nothing in this AFA diminishes or replaces the existing rights and responsibilities of the Service, CSKT, or their employees under their respective personnel laws and policies, including, but not limited to: the right to file grievances; EEO complaints; and whistleblower complaints, as may be applicable.
- B. *Safety*. The Parties are committed to providing a safe workplace for all employees and Volunteers. In addition to Operational Standards and CSKT policies related to health and safety in the workplace, the following safety rules apply at NBRC:
1. All employees and Volunteers have the responsibility and authority to stop any work or project in progress and immediately notify a member of the Refuge Leadership Team when they observe unsafe working conditions or practices. Work will resume when the Refuge Leadership Team has determined, and notified the employees and/or Volunteers, that the safety concerns have been resolved.
  2. All employees and Volunteers have the right to refuse work on the basis of safety if they have not received;

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*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 12 of 38*



- a. adequate training or instructions to perform the assigned task(s) safely; or
- b. the proper tools, supplies or equipment, including personal protective equipment, necessary to perform the assigned work safely.

#### **Section 10. Performance Standards**

*A. Operational Standards.* The CSKT will perform each Activity covered by this AFA in compliance with all applicable Operational Standards, as defined in Section 4, subject to the Refuge Manager's prioritization as provided in Section 7.E.

*B. Waivers.* The TSGA authorizes the Secretary to waive regulations in accordance with the procedures in § 403(i)(2) of that Act, 25 U.S.C. § 458cc(i)(2), and the Tribal Self-Governance Regulations at 25 C.F.R. Part 1000, Subpart J. However, CSKT agrees to consult with the Refuge Manager prior to making any request for the Secretary to waive a regulation

*C. Environmental Compliance.* In conducting an Activity, the CSKT will comply with all applicable Operational Standards concerning the environment, with the following stipulations:

1. *National Environmental Policy Act of 1969 (NEPA)*, 42 U.S.C. §§ 4321–4335. The Refuge Manager will identify any Activity that will require NEPA compliance documents. The Parties will work together to complete any necessary NEPA process for the Activity.
2. *Historic Preservation.* The Refuge Manager will identify any Activity that will require compliance with the National Historic Preservation Act (NHPA), 16 U.S.C. §§ 470-470mm, or another cultural resource law, regulation, or policy. The Parties will work together to complete any necessary process for the Activity.
3. *Endangered Species Act.* The Refuge Manager will identify any Activity that will require compliance with the Endangered Species Act, 16 U.S.C. § 1531 *et seq.*, including Intra-Service Section 7 consultations. The Parties will work together to complete any necessary process for the Activity.

*D. Construction Review and Inspection.*

1. *Addition of Funding.* Upon agreement of the Parties, the budget in Attachment B may be amended to include construction and/or deferred maintenance funding for work to be performed by CSKT.
2. *Review and Approval of Plans, Specifications, and Drawings.* The CSKT will not begin any construction covered by this AFA without prior written approval from the Refuge Manager of all associated design, engineering, and construction plans, specifications, and drawings. The Refuge Manager will be responsible for obtaining



necessary approvals from the Service's Regional Engineer. To the extent the CSKT is responsible for preparing or providing design, engineering, construction plans, specifications, or drawings for any construction covered by this AFA, the CSKT will consult with, and incorporate or otherwise adequately respond to the comments of, the Refuge Manager. This includes, but is not limited to, seeking the Refuge Manager's review and tentative approval at approximately the 25% and 75% stages of completion.

3. *Inspection and Reporting System.* The CSKT will use an inspection and reporting system, implemented by appropriate professionals, adequate to verify and document to the Service that any construction was performed to all applicable Operational Standards.

*E. Use of CSKT Performance Standards.* With the prior written approval of the Refuge Manager, the CSKT may substitute for an Operational Standard a written performance standard that is at least as protective of the NBRC resources and equipment as the corresponding Operational Standard.

*F. Disclaimer.* Nothing in this AFA is intended to exempt the CSKT from complying with any Federal law, regulation, or other provision otherwise applicable to the CSKT.

#### **Section 11. Records and Other Information**

*A. General Requirement.* The CSKT will collect, maintain, and provide to the Service all records and other information specified in this AFA or the Work Plan which the Service needs in order to comply with requirements imposed by law or policy with regard to any Activity, including but not limited to: construction; finance; environmental compliance; performance of IPA Employees; and claims based on property damage, injury, or death.

*B. Activity Records.* The Parties will set forth in the Work Plan an explanation of any Activity record CSKT will need to maintain as part of its performance of the Activity. Each Activity record will contain information sufficient to document the nature of the Activity and when, where, and by whom it was performed. The Refuge Manager and the CSKT Wildlife Refuge Specialist will cooperate to ensure that the level of detail in Activity records is adequate for Service purposes without imposing an undue administrative burden on the CSKT. Upon request, and with reasonable advance notice, the CSKT will provide to the Service a copy of any Activity record.

*C. Financial Records and Reports.*

1. *Records of Expenditures.* Using standard accounting practices, the CSKT will maintain financial records of its expenditures of Service-provided funds under this AFA. The CSKT will provide those financial records to the Service to the extent the Service





requires them for its budget appropriation and apportionment processes, or in the event of retrocession or reassumption under AFA Sections 18.B or 18.C.

## *2. Financial Status Reports.*

- a. *Annual Report and Carry-Over.* The CSKT will provide the Service a complete financial status report within 90 days of the close of each fiscal year. At a minimum, this report will identify CSKT expenditures for the fiscal year in the following categories: permanent staff salaries and benefits; temporary staff salaries and benefits; travel; training; itemized contracts with third party vendors; itemized specific projects with costs exceeding \$5,000; itemized equipment purchases, and equipment or facility repairs exceeding \$3,000; and general supplies and equipment for each program (biology, maintenance, visitor services). This report will be used by both Parties to reconcile the status of ongoing projects and Activities. Any funds remaining with the CSKT at the end of a fiscal year may be retained by CSKT and used on future projects at the NBRC (*see also* Section 21.B.2 of this AFA).

The Parties recognize that funds must be available to CSKT on October 1<sup>st</sup> annually. The Parties acknowledge that, since it is generally not possible for the Service to provide funds on the first day of a new fiscal year, it is both necessary and appropriate for CSKT to carry-over funds to cover, for example, payroll in the new fiscal year.

- b. *Other Reports.* Within 180 days of the effective date of any retrocession or reassumption under Section 18.B or 18.C of this AFA, the CSKT will provide the Service a complete financial status report concerning the funds the Service provided to the CSKT under this AFA and the CSKT expended through the effective date of the retrocession or reassumption.

*D. Inapplicability of the Freedom of Information Act (FOIA) (5 U.S.C. § 552) and the Privacy Act (5 U.S.C. § 552a).* As authorized by 25 U.S.C. §§ 450(l)(b), 450(c)(1)(b)(7)(A), 458cc(l), and 25 C.F.R. § 1000.392, except for previously provided copies of Tribal records that the Secretary demonstrates are clearly required to be maintained as part of the record keeping system of the Department, records of the CSKT shall not be considered Federal records for the purpose of the FOIA. The FOIA does not apply to records maintained solely by CSKT. As authorized by 25 C.F.R. § 1000.393, CSKT records shall not be considered Federal records for the purposes of the Privacy Act.

*E. Conflicting Requirement.* The CSKT must not take any action under this Section 11 that would conflict with any Federal law or regulation applicable to the CSKT and governing audits and administrative records.



## **Section 12. Performance Assessment, Reporting, and Review**

### ***A. Monitoring, Evaluation, and Notice of Performance Concerns.***

1. *Joint Monitoring.* The Service and CSKT will jointly monitor NBRC operations and provide timely notice to each other of any concerns. In accordance with this Section, the Service will notify the CSKT in writing of any performance concern or perceived deficiency in work performed under this AFA.
2. *Evaluation.* In the event the Parties do not agree on any portion of any evaluation, assessment or report, such document shall include the relevant views of each party, presented together for ease of reference by any reader of the document.
3. *Notice to CSKT.* The Service will notify the CSKT concerning its performance under this AFA as follows:
  - a. *Comments.* The Service promptly will notify the Manager of the CSKT Division of Fish, Wildlife, Recreation and Conservation in writing of each written comment and documented oral comment received from third parties concerning the CSKT's performance of any Activity. The Service will promptly provide to the CSKT a copy of each written comment or documented oral comment without requiring any request from CSKT, in accordance with disclosure practices under FOIA and the Privacy Act. The Service will not take any action regarding the CSKT's performance on the basis of any oral comment that the Service did not document in writing, or any comment the Service did not promptly provide to the Manager of the CSKT Division of Fish, Wildlife, Recreation & Conservation.
  - b. *Performance Deficiency Concerns.* If the Service perceives a deficiency in the performance of the CSKT, the Service will notify the CSKT of the perceived deficiency, as follows:
    - i. *Emergency.* If the perceived performance deficiency is of an emergency nature, the Refuge Manager shall notify the Manager of the CSKT Division of Fish, Wildlife, Recreation and Conservation orally and follow up with a written notification to that Division Manager within one week from the date of oral notice.
    - ii. *Notice of Significant Perceived Deficiencies.* With prior approval from the Refuge Supervisor, the Refuge Manager will notify the Tribal Council in writing of any significant perceived performance deficiency, including one which potentially constitutes grounds for reassumption under Section 18.C. The written notice will identify the Activity and describe: the performance deficiency at issue; the applicable baseline data; Operational Standard; approved Work Plan provision; or term or condition of this AFA; and why the



performance of the CSKT does not meet that requirement. The notice will give the CSKT a reasonable amount of time either to remedy the performance deficiency or demonstrate to the Refuge Manager that no performance deficiency exists. The amount of time allowed for remediation or such demonstration will be set by the Refuge Manager depending on the nature of the deficiency. Prior to providing written notice of a perceived performance deficiency that the Service believes could be the basis for reassumption, the Service shall consult with CSKT, the Assistant Regional Director - Refuges and the Regional Director and provide CSKT with an opportunity to respond.

- iv. *Failure to Provide Notice.* If the Refuge Manager does not follow the notice procedures outlined in this subsection "b", the Service may not cite such perceived deficiency as a basis for any action concerning CSKT or this AFA.

B. *Reports.* If either Party chooses to draft an evaluation or similar report concerning this AFA, it will first consult with the other Party to discuss the subjects to be covered in the report and how the Service and the CSKT can work jointly to ensure that both Parties' positions are included.

C. *Periodic Status Reports.*

1. Upon implementation of this AFA, periodic status reports will be prepared quarterly. The Refuge Manager shall endeavor to submit the status reports to the FWS Refuge Supervisor and the CSKT Tribal Council by the 15<sup>th</sup> day of January, April, July, and October. The Parties may agree to submit the status reports on a more or less frequent basis.
2. The Refuge Leadership Team jointly will prepare and approve the status reports. At minimum, reports will include any significant concerns either Party has regarding the performance of the other Party that, if unresolved, could potentially result in Service reassumption, or CSKT retrocession of any Activity or Activities contracted under this AFA. If the Parties disagree on any part of the report, the relevant views of each Party will be included. The status reports will be signed by the Refuge Manager.

**Section 13. Personnel**

A. *General Staffing.*

1. Consistent with the funding level provided in this AFA, the CSKT will perform the Activities covered by this AFA using the services of CSKT Employees, contractors and/or Volunteers.
3. To perform the work under this AFA, CSKT will fill vacant positions with well-qualified CSKT Employees. The Service will provide funds for, and CSKT will hire, employees to fill seasonal positions in the biological and visitor services program.





which may not be included on the Service's NBRC organizational chart, but which are necessary to accomplish the annual Work Plan.

3. Except for the positions of Refuge Manager, Deputy Refuge Manager, and Refuge Law Enforcement Officer, as other staff positions on the Service's NBRC organizational chart are vacated by Service-employed incumbents, those positions will be filled by CSKT with well-qualified CSKT Employees. If the Service staff position vacated was not originally included in work included in this AFA, work performed by that position that is not inherently Federal will also be transferred to CSKT, and the budget in Attachment B will be amended to provide CSKT with the funding associated with the position.
4. Each Party agrees to allow the other Party to participate in all staffing actions taken to fill permanent and temporary position vacancies at the NBRC, to the extent that such participation is authorized by the personnel policies and regulations of the hiring Party. Federal personnel rules allow for the CSKT to participate in the interview process when the Refuge Manager is hiring a new Service employee, and to make recommendations to the Selecting Official. The Service agrees to that authorized level of CSKT participation in the Federal hiring process, and the CSKT agrees to reciprocate, as allowed by CSKT's Ordinance 69C, as amended.

*B. Supervision, Direction and Off-Station Duty Assignments of NBRC employees.*

1. *Supervision.* Each Party will administer, for their respective NBRC employees, individual performance planning and evaluation, standards of conduct enforcement and disciplinary actions, and other personnel actions such as promotions, awards, and training. The Service will administer the above categories of actions for any of its employees assigned to CSKT under IPA agreements.
2. *Direction of Day-to-Day Work Activities.* The Refuge Manager shall provide day-to-day direction to the CSKT Wildlife Refuge Specialist, who shall be supervised by the Manager of the CSKT Division of Fish, Wildlife, Recreation & Conservation. The CSKT Wildlife Refuge Specialist will provide day-to-day direction to the program leads in the Biology, Maintenance, Fire, and Visitor Service Programs (except for the Outdoor Recreation Planner, unless that position is contracted to CSKT), as well as to CSKT Employees, contractors and Volunteers performing work contracted under this AFA.
3. *Off-Station Duty Assignments of NBRC employees.* The Parties agree to provide NBRC employees, whether Federal or Tribal, with the same training and career building experience opportunities available to other Federal employees employed with Region 6 refuges. The Parties further agree that NBRC employees, whether Federal or Tribal, will generally be available to assist other National Wildlife Refuges with specific work projects as needed. The Service may detail Service or CSKT NBRC employees to work



at other units of the Refuge System, including units of the NBRC not covered by this AFA. The Service may detail employees from other Service duty stations to assist with work at NBRC without restriction and subject to agreements between the NBRC Refuge Manager and refuge managers of the other Service field stations involved. NBRC employees of either Party who are qualified for the assignment may be made available for inter-agency fire suppression assignments, or for other all-hazard emergency responses.

*C. Management; Office Space.* At a minimum, the Service will provide secure, private office space for the CSKT Wildlife Refuge Specialist. CSKT agrees to fund a dedicated phone line and computer lines using the operational budget provided in this AFA. The Service will provide access to its Information Technology staff to assist with the technology issues involved.

*D. Training and Skill.* CSKT will staff and oversee the Activities under this AFA through the professional staff of its Natural Resources Department. The Service will provide access to, and funding for, FWS training for CSKT Employees (or Volunteers, if appropriate) for work performed under this AFA in the same manner it would have provided training for its own staff if Service employees were performing the same work. The Service will provide resident training to CSKT Employees at the National Conservation Training Center on the same basis as it provides training to Service employees, without charging tuition, room and board. As is the normal practice with Service employees, CSKT Employees' training will be funded from the operational budget transferred to the CSKT under the AFA.

*E. Uniform.* While on duty, each CSKT Employee will wear a uniform that clearly identifies her or him as a CSKT Employee. As part of the consideration described in the Attachment B budget, FWS will provide uniform allowance funding to CSKT in an amount equal to that which the Service would have allocated to its own employees who would have performed the Activities in the absence of this AFA.

*F. Affected Federal Employees.*

1. *Information.* Promptly after executing this AFA, the Service and the CSKT will discuss with each Affected Federal Employee all available options for her or his employment under this AFA.
2. *Opportunity to Elect.* Each Affected Federal Employee has the following options and must select an employment option no later than thirty (30) days after the last date of signature for this AFA. Each Affected Federal Employee shall have one additional opportunity to choose a different employment option during the term of this AFA.
3. *Available Options.* The options available to each Affected Federal Employee for continued employment at the NBRC under this AFA are:





- a. *Assignment to the CSKT under the Intergovernmental Personnel Act (IPA)*, 5 U.S.C. §§ 3371-3376. Continued employment by the Service with an assignment to the CSKT under an IPA Agreement;
  - b. *Employment by CSKT with CSKT Benefits*. Direct employment by the CSKT as a CSKT employee with CSKT benefits;
  - c. *Employment by CSKT with Federal Benefits*. Upon the election of both the Affected Federal Employee and the CSKT, as provided by § 104 of the Act, 25 U.S.C. § 450i, direct employment by the CSKT as a CSKT employee with Federal benefits; or
  - d. *Reassignment*. Affected Federal Employees have the same ability as other Service employees to request reassignment at any time. If requested, and where practicable, reassignment by the Service to another duty station may be possible.
4. If all of the above options are unsuccessful, the work performed by an Affected Federal Employee's position that is not inherently Federal will be transferred to CSKT, and Attachment B will be amended to provide CSKT with the funding associated with the position.
5. *Assignment to the CSKT under an IPA Agreement.*
- a. *Execute IPA Agreement*. After any Affected Federal Employee has chosen to work under an IPA assignment, the Service and the CSKT will promptly execute an IPA agreement for that employee.
  - b. *Continuation of Employment*. In the case of an assignment of a Federal employee to an Indian tribe, the IPA authorizes the Service, under delegation from the Secretary, to "extend an initial period of assignment for any period of time where it is determined that this will continue to benefit both the executive agency and the Indian tribe or tribal organization." See 5 U.S.C. § 3372(a). The Service and the CSKT agree that extending the initial period of assignment for each Affected Federal Employee will continue to benefit the Service and the CSKT for the full term of this AFA and each subsequent AFA, except for a retrocession or reassumption under AFA Sections 18.B or 18.C below, or cancellation for cause in accordance with Section 13.F.5.c below.
  - c. *IPA Employee Performance and Conduct*.
    - i. If CSKT perceives a deficiency in the performance or conduct of an IPA Employee, the Refuge Manager and the CSKT Wildlife Refuge Specialist will confer, and the Service will apply Federal personnel procedures to address any such deficiency.



- ii. CSKT may terminate an IPA agreement only for cause, with cause being defined as one of the following:
  - aa. The IPA employee is determined by the Service, in a disciplinary action, to have engaged in misconduct resulting in adverse action of suspension of 14 days or longer, or termination, as prescribed in 370 DM 752. CSKT can, but is not required to terminate the assignment of an IPA employee who receives disciplinary action from the Service that is less than termination;
  - bb. The IPA employee is determined to perform at a less-than-fully-satisfactory level and fails to successfully complete a Performance Improvement Plan, as prescribed in 224 FW 2;
  - cc. The IPA employee is referred to a medical professional for a fitness for duty determination and is determined by a physician or other approved medical professional to be physically unable to perform the work described in the employee's position description; or
  - dd. Any other cause as agreed to by the Service.
- iii. Upon termination of an IPA agreement for cause, the Activities that had been performed by that IPA Employee will remain the CSKT's responsibility under this AFA. The Service will transfer to CSKT the balance of salary and benefits for that position in the current and subsequent fiscal years covered by this AFA.
- iv. CSKT may invoke the dispute resolution process (see Sec. 20.A of this AFA) up to the Regional Director level to resolve issues related to IPA assignments.
- v. Consistent with 5 C.F.R. § 334.107(a), CSKT may terminate an IPA agreement at any time and for any reason, including for cause other than as defined in this AFA. However, in the event CSKT terminates an IPA agreement for a reason other than cause as defined above in this AFA, the Service will retain funding for the salary and benefits for such position and the Service shall assume responsibility for any Activities performed by such position.

d. *Holidays.* On Federal holidays, IPA Employees will either be excused from duty without charge to leave or receive holiday premium pay for work performed. The Service will provide funds from its operational budget to cover any holiday premium owed to IPA Employees for Columbus Day or Presidents' Day.

6. *Direct Employment by the CSKT.*



- a. *Employment Election.* At its discretion, the CSKT may directly employ each Affected Federal Employee who elects that option. As agreed by the Affected Federal Employee and the CSKT, either CSKT benefits or Federal benefits will be provided.
  - b. *Continuation of Employment.* The CSKT will give each Affected Federal Employee directly employed by the CSKT the highest level of protection of continued employment and retention of benefits afforded to any other employee of the CSKT.
7. *Nondiscrimination.* The Parties will not tolerate unlawful discrimination against any CSKT or Service employee, contractor, or Volunteer. The NBRC shall be a workplace free of unlawful harassment and employees shall be provided a civil work environment.

*G. Performance and Conduct.*

1. The Parties are committed to a strong partnership and appreciate the challenges and the benefits of leading an integrated team of Service and CSKT employees to accomplish a common mission at NBRC. To support that goal, each Party will include in the individual performance plans of its own employees, as a requirement of successful employee performance, a critical element providing that the employee work cooperatively with the other Party and its employees and work to successfully implement this AFA.
2. Each Party will supervise its own employees for purposes of maintaining standards of conduct and administration of disciplinary action in accordance with the personnel regulations and policies of the Department and CSKT, respectively.
3. In the event that either Party believes that the performance or conduct of an employee of the other Party is negatively impacting its ability to effectively perform its own work, the matter will be referred to the Refuge Leadership Team for resolution. If the Refuge Leadership Team is unable to resolve the issue, the alternative dispute resolution process described in Section 20.A below will be used to resolve the issue.

*H. Personnel Records.* The Service will maintain the official personnel records and files of its own employees, including employees assigned to work for CSKT under an IPA agreement, in accordance with the personnel regulations and policies of the Department. CSKT will maintain the official personnel records and files of its own employees in accordance with its own personnel regulations and policies. Access to and release of personnel records of one Party, to the other Party or to any other person/entity, will be governed by the statutes, regulations and policies of the Party maintaining those records.





I. *Volunteers.* The Parties recognize that the service of Volunteers is an important resource for accomplishing goals and objectives throughout the NWRS, including at the NBRC. When properly trained and qualified, Volunteers may perform any approved work function at NBRC except for: management/supervision; law enforcement; fire suppression; and prescribed burning.

1. *Qualifications and Training:*

- a. Prior to implementation of this AFA, the Parties will mutually develop standard Volunteer Position Descriptions (VPDs) for the duties historically performed by Volunteers at NBRC. The VPDs will include the general duties and qualification standards, including safety trainings and certifications required for each Volunteer position. The VPDs will include lists of any required personal protective equipment that must be provided to the Volunteer.
- b. Prior to being assigned duties, all Volunteers will attend an NBRC Volunteer orientation training program. The orientation training will be developed jointly by the Service's Outdoor Recreation Planner and the CSKT Wildlife Refuge Specialist (or designee), and will be offered to Volunteer applicants not less than semi-annually, or as often as requested by either Party.
- c. The orientation training program will include at a minimum: the Parties' expectations for a safe workplace; the Parties' zero tolerance policy for discrimination or harassment of any kind; the history and culture of the CSKT; the history and mission of the NWRS and NBRC; and the Tribal Self-Governance Act laws and policies. Upon completion of the orientation, Volunteers will be required to sign statements acknowledging their training. Once applicant Volunteers have completed any trainings or certifications identified in their VPDs, they will be qualified for duty at NBRC.

2. *Volunteer Program Administration.* The Parties agree to assist in recruiting, training and referring Volunteer candidates.

- a. All NBRC Volunteers must sign the standard Volunteer Service Agreement, with attached VPD, and will work under the general oversight of the Refuge Manager.
- b. From the pool of qualified Volunteers, the CSKT will select and direct the day-to-day work of Volunteers working in the Activities which the CSKT has contracted. The Service will select and direct the day-to-day work of Volunteers working in activities remaining with the Service.
- c. Volunteer records, including signed Volunteer Service Agreements, VPD's, and certificates of training, will be retained by the Service's Volunteer Coordinator throughout the service of each Volunteer, with copies to CSKT for any Volunteer directed by CSKT, except that personal information protected by the Privacy Act will not be released to CSKT without permission from the Volunteer. The CSKT will provide the Service's Volunteer



Coordinator with data on the number of Volunteers employed by the CSKT, and number of hours worked by Volunteers annually, for preparation of required Volunteer reports and the RAPP.

- d. NBRC Volunteers are considered to be employees for the purposes of the Service's and CSKT's respective workers' compensation coverage. All NBRC Volunteers are protected by the Federal Tort Claims Act and/or by liability insurance purchased by the Bureau of Indian Affairs, consistent with 25 U.S.C. § 450f(c) and Sections 16.A and 16.D below.

3. *Suspension and Termination of Volunteers.* Any NBRC Volunteer may be unilaterally suspended from duty for alleged misconduct. Alleged misconduct upon which a suspension may be directed includes suspected safety violations or suspected violation of the zero tolerance policy for discrimination and harassment. Suspended Volunteers will not be allowed to work at the NBRC while the Refuge Manager completes an investigation and makes a determination for final disposition. The Refuge Manager shall consult with the Refuge Leadership Team prior to making a determination for final disposition. Final disposition may include: no action – return to duty; counseling; training; or termination.

4. *Volunteers for Round-Up.* The Parties jointly will select Volunteers to participate in the annual Round-Up events.

K. *Background Checks.* The Parties understand that background checks may be required for NBRC employees. Such background checks will be consistent with, and implemented in accordance with, Homeland Security Presidential Directive #12 which outlines Federal standards for identification and obtaining these credentials. To the extent possible, the Service agrees to assist in expediting the processing of any such background checks. Any associated costs will be addressed through Attachment B. Employees may report to work pending completion of any background check.

#### **Section 14. Consideration**

A. *Base Funding; Non-Recurring Funding.* Base funding for this AFA will be identified annually in Attachment B. The Parties hereby agree that the funding will not be reduced from the base funding level except for the reasons specified in 25 U.S.C. 450j-1(b). Attachment B will also identify one-time, non-recurring funding for special projects such as Deferred Maintenance, vehicle replacement, Challenge Grant Cost Share Agreements and other flexible funding. For the first year of this AFA, Attachment B will reflect that the Service will transfer funds to CSKT in an amount pro-rated to reflect the [phasing-in of performance as mutually-agreed upon per Section of this AFA] or [implementation of this AFA at a mid-point in the fiscal year].

B. *Funding.* In return for the CSKT performing the Activities, and subject to the terms and conditions in this Section, the Service will provide the CSKT the consideration specified in

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*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 24 of 38*



Attachment B. Attachment B will be revised for each fiscal year, and will be prepared by August 31<sup>st</sup> annually for the following fiscal year. Consistent with Section 25.A below, for FY 2013 the Parties may agree to phase in Activities and their associated funding over the [first quarter] of that fiscal year.

1. The Service will retain funding and responsibility for administering and paying general fixed operational costs, except for those costs that can be processed with greater efficiency and cost-effectiveness by CSKT, as jointly determined by the Refuge Manager and the Manager of the CSKT Division of Fish, Wildlife, Recreation & Conservation. Transfer of funds to CSKT for such costs will be reflected annually in Attachment B.
2. The Service will provide funding for, and CSKT will be responsible for, hiring seasonal staff in the biological, visitor services and maintenance programs.
3. The Service may either retain or transfer to CSKT funding for acquisition of goods and services necessary for the following operations for which CSKT is responsible: maintenance of facilities and equipment (including care and feeding of animals); execution of the Biological Program (including habitat management); and Visitors Services Programs. Division of funds for these operations and maintenance requirements will be jointly determined by the Refuge Manager and the Manager of the CSKT Division of Fish, Wildlife, Recreation and Conservation and will be reflected annually in Attachment B.
4. The Service will provide CSKT with funding equivalent to 0.25 of a GS-7 Technician position for implementation of the Fire Program responsibilities outlined in Section 8 of this AFA.
5. Generally, Attachment B specifies the following types of consideration:
  - a. *IPA Employees.* Assignment by the Service to the CSKT of those Affected Federal Employees who elect to continue Federal employment under this AFA pursuant to an IPA Agreement; and
  - b. *Appropriated Funds.*
    - i. *Program Funds.* The Program funds that the Service would allocate to performance of the Activities if performed by the Service (less the salary and benefits of IPA Employees and the fixed costs identified in Subsections 14.B.1 and 14.B.3 above) including: salary and benefits for organizational chart permanent positions filled by CSKT, (including those existing at the time of implementation of this AFA, and positions that may be vacated by Service employees and later filled by CSKT employees during the period covered by this AFA); funds for

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*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 25 of 38*





employment of seasonal employees; funds for travel and training of CSKT Employees; funds to compensate CSKT for time worked in support of NBRC by employees of the CSKT Division of Fish, Wildlife, Conservation and Recreation who are not assigned permanently to NBRC (e.g. participation in the Refuge Leadership Team by the Manager of the CSKT Division of Fish, Wildlife, Recreation & Conservation); funds for acquisition of supplies and services to support programs, as agreed upon by the Refuge Manager and Manager of the CSKT Division of Fish, Wildlife, Recreation & Conservation; and other fixed costs jointly identified as being transferred to CSKT in Subsections 14.B.1 and 14.B.3 above; and  
ii. *Contract Support Costs.*

*C. Cost of IPA Employees.* The Service will pay the salary and benefits of each IPA Employee. To cover those costs, the Service will reduce the funds it otherwise would pay to the CSKT under this Section by an amount equal to the salary and benefits of that position. If an IPA Employee is reassigned outside of the NBRC or his/her employment with the Service is terminated, or if CSKT terminates the IPA agreement in accordance with Section 13.F.5.c above, the assignment of that employee and the obligations of the CSKT under that IPA agreement will end. At the end of the IPA assignment, the Service will transfer funds to the CSKT in the amount the Service would have spent on the salary and benefits of the IPA Employee from the date of termination of her or his employment or IPA assignment through the last date of the term of this AFA or the effective date of any applicable retrocession or reassumption, using the payment procedures in Section 14.E.2 below.

*D. Contract Support Costs.* During this AFA, the Service will provide contract support costs as required by 25 U.S.C. § 458ccc(g)(3) and 25 C.F.R. §1000.137(b). CSKT will provide the Service with all necessary information, including CSKT's indirect cost rate approved by the Department's National Business Center (NBC rate), in accordance with 25 C.F.R. §1000.138.

In lieu of full contract support cost reimbursement using CSKT's federally-approved indirect cost rate, and in recognition of the Service's anticipated budget reductions, the Parties agree that the Service will pay CSKT a flat rate equivalent to \$5000.00 per fiscal year for each Service full-time equivalent (FTE) staff position filled by CSKT. For positions that CSKT fills for less than one full fiscal year, the Service shall prorate the flat rate reimbursement accordingly. Similarly, for positions that constitute less than 1.0 FTE, the Service shall prorate the flat rate accordingly.

Under this formula, the Service's indirect costs reimbursement to CSKT shall not exceed \$40,000.00 during any one fiscal year. However, the Parties agree that, prior to the third fiscal year of this AFA, they will revisit the issue and discuss amending the AFA to provide full reimbursement of indirect costs, using CSKT's federally-approved indirect cost reimbursement rate.

1. All direct and indirect costs will be negotiated and agreed upon by the Parties prior to initiation of funds transfers.

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*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 26 of 38*



2. Prior to submission of cost proposals and requests for projects outside the base budget as represented by Attachment B, the Refuge Leadership Team will ensure that all necessary indirect costs to support CSKT administrative functions are included.
3. Per longstanding practice in the Department's cooperative agreements with Tribes, indirect costs will not be assigned in support of wildfire suppression/rehabilitation activities.

*E. Transfer of Consideration.*

*1. Affected Federal Employees.*

- a. *IPA Employees.* The Service will assign each IPA Employee to the CSKT on the effective date of this AFA.

*2. Payment of Funds.*

- a. *Annual Base Payment.* Subject to final Federal appropriation, within 10 calendar days of the beginning of each fiscal year, the Service will pay to the CSKT 100% of the funds identified in Attachment B. The Service's Regional Office will initiate funds transfers and will include all funds that Congress has appropriated and that are available for expenditure by the Service on the Activities covered by this AFA and that are due to the CSKT as consideration under this AFA. The Attachment B budget will be adjusted annually thereafter to a mutually agreed-upon amount prior to funds transfer.
- b. *Additional Payments.* The Service's Regional Office may effect additional funds transfers that are not described in Attachment B as warranted for Activities covered by this AFA. Such amounts will be mutually agreed upon by the Parties in advance and will be transferred within ten calendar days of receipt of the request. In addition, if at any time Congress has appropriated to the Service, and as a result the Service has paid the CSKT, less than all of the funds due to the CSKT under this AFA, the Service will pay the CSKT the balance due only to the extent additional appropriations and allocations become available.
- c. *Application of Congressional Rescissions.* The Service shall apply congressional appropriation rescissions to funds allocated to CSKT in the same manner as the Service applies them to its own funds (e.g., if the Service does not make staff salaries subject to rescissions, it shall not deduct any amount from the funds it provides to CSKT for staff salaries).

*F. No Reallocation or Reprogramming of Consideration.* Consistent with 25 C.F.R. §§ 1000.397–399, the CSKT will use the funds provided by the Service, and any interest earned on those funds, to perform only Activities covered by this AFA.





*G. Funding Errors or Omissions.* In the event of errors or omissions necessitating adjustment of funds provided by the Service, the Parties will amend this AFA as provided in Section 22.A below.

*H. Antideficiency Act.* This AFA is subject to the requirements of the Antideficiency Act, 31 U.S.C. § 1341. Nothing in this AFA shall be construed as requiring the Service to obligate, or the Service to provide, any consideration in advance or in excess of funds appropriated by Congress for expenditure on Activities.

*I. Lobbying.* No funds provided under this AFA may be used for lobbying Congress or any other entities. 18 U.S.C. § 1913.

*J. Rights in Data.* Each Party shall have complete and unlimited access to use, modify, copy, and disseminate all research data collected or produced under this AFA, including original data sheets, without notice to or approval from the other Party. Neither Party will withhold any such data; each will ensure timely transmission of all data to the other Party so it may be stored at the NBRC and CSKT offices for future use. Original data sheets will also be stored at the NBRC. Any research conducted at NBRC which collects Protected Personal Information (PPI) from individual people must be approved under U.S. Office of Management and Budget (OMB) guidelines, and any such PPI that is collected will be protected from unauthorized disclosure per OMB guidelines and the Privacy Act.

*K. Recognition of Service Funding; Use of Logos.* Recognition of Service funding is required on any product, material, or publication produced under this AFA. The CSKT is encouraged to use the Service's logo/images on all materials and publications produced under this AFA. However, prior approval of the Refuge Manager is required for use of Service-owned images not available to the general public, and proper crediting of those images must be given to the Service.

## **Section 15. Property**

*A. Availability and Use; Access to Property and Facilities.* The Service will make available to the CSKT, for non-exclusive use in performing Activities, all personal and real property currently on hand or subsequently acquired by the Service. The Service will make such property and equipment available to CSKT staff on the same basis as to Service staff, and the property shall be equivalent in quality. Significant changes in the use of buildings or other real property of NBRC are subject to approval of the Refuge Manager.

*B. Inventories of Personal Property and Real Property.* Attachment C is the Service's inventory of personal property (including condition) and sensitive or controlled items. Attachment D is an inventory of real property (including condition). The Service will update these inventories to reflect any changes, and will provide to the CSKT copies of such updates.



C. *NBRC Data.* The CSKT shall have ongoing reasonable access to data and the right to copy it.

D. *Title and Ownership; Protection.* All personal property and real property (including natural resources), owned by the United States, will remain Federal property. The United States will hold title to any equipment, materials, or supplies the CSKT purchases with funds provided by the Service under this AFA. Keys will be assigned to the CSKT on a Standard Form DI-105, Receipt for Property. The CSKT will take reasonable steps to protect all such property from fraud, theft, abuse, damage, or loss.

E. *Disposal.* With the prior written approval of the Refuge Manager, the CSKT may dispose of any item of Federal property in accordance with Federal property procedures.

F. *Excess Property.* At CSKT's request, the Service may transfer to the CSKT ownership of any Federal property that is not needed by the Service. Pursuant to 25 U.S.C. § 458ff(c), which incorporates 25 U.S.C. § 450j(f), the Service will facilitate transfer of any such property to the CSKT in accordance with Federal property procedures.

G. *Use of CSKT Equipment.* The CSKT may elect to perform any Activity using equipment owned or otherwise available to it. The Service will supply fuel and lubricating oil for any such equipment.

#### **Section 16. Claims and Liability**

A. *Federal Tort Claims Act.* In performing Activities, the CSKT will be covered by: the Federal Tort Claims Act (FTCA), 28 U.S.C. §§ 2671–2680, as provided by 25 U.S.C. § 450f(c); § 314 of Pub. L. No. 101-512 (*reprinted at* 25 U.S.C.A. § 450f, note); and applicable Tribal Self-Governance Regulations at 25 C.F.R. §§ 1000.270-283. Except as otherwise provided by Federal law and Section 16.D below, the CSKT accepts any risk not covered by the FTCA in performing Activities.

B. *Notice of Incident or Claim.*

1. *Notice of Incident.* The CSKT promptly will notify the Refuge Manager in writing of any incident involving personal injury, death, or property damage resulting from the performance by the CSKT of an Activity covered by this AFA.
2. *Notice of Claim.* The CSKT and the Service promptly will notify each other in writing of any claim received from a third party for damage, injury, or death at, or involving, the NBRC.

C. *Unemployment and Workers' Compensation Insurance.* The CSKT will provide unemployment and workers' compensation insurance for each CSKT Employee other than an IPA Employee, and workers' compensation insurance for each CSKT-directed Volunteer, commensurate with that provided to other CSKT Tribal government employees. The CSKT will



ensure that each CSKT contractor is covered by workers' compensation insurance commensurate with that provided to CSKT Tribal government employees. The CSKT will hold the United States harmless from any unemployment or workers' compensation claim made by a CSKT contractor or CSKT Employee, other than an IPA Employee, in connection with the performance of any Activity.

*D. Liability Insurance for Volunteers.* In accordance with 25 U.S.C. § 450f(c), the Bureau of Indian Affairs will purchase insurance protecting CSKT-directed Volunteers from liability for potential claims based upon their activities involving the NBRC. This insurance is supplementary to any coverage afforded the Volunteers by the FTCA.

#### **Section 17. Emergencies and Unusual Events**

*A. Notice.* Where practicable, after learning of any emergency or other unusual event at the NBRC, or involving its staff, either Party will orally notify the other Party promptly. The Service and the CSKT will give each other the name, address, and telephone number of one or more persons to receive such notice in the absence of the Refuge Manager or the CSKT Wildlife Refuge Specialist.

*B. Temporary Operation and Control.* In accordance with Section 7.F above, nothing in this Section shall be interpreted to limit the ability of either Party to respond to emergency safety concerns. Where necessary to deal with an emergency, including any situation which the CSKT determines it cannot resolve independently, the Service temporarily may assume operation and control of any Activity, including supervising any CSKT Employee engaged in the Activity. When the emergency ceases to exist, the Service will return operation and control of the Activity to the CSKT. Nothing in this Section shall be interpreted as authorizing the Service to reassume an Activity without complying with the provisions of Section 18.C below and Federal regulations governing reassumption.

*C. Emergency Procedures.* In an emergency, the Parties will use the following procedures:

1. *Determination by Refuge Manager.* The Refuge Manager will determine when an emergency exists and when it has ended.
2. *Notice to CSKT Employees.* The Refuge Manager will notify the CSKT Wildlife Refuge Specialist or another available CSKT Employee that an emergency exists, as provided in Section 17.A above.
3. *CSKT Response.* Following notice of an emergency under Sections 17.A and 17.C.2 above, at the oral request of the Refuge Manager any CSKT Employee performing an Activity will:
  - a. relinquish operation and control of the Activity to the Service;





- b. assist the Service in responding to the emergency; and
  - c. follow any related instructions issued by the Refuge Manager.
4. *CSKT Employee Not Available.* Where neither the CSKT Wildlife Refuge Specialist nor another CSKT Employee is available to receive notice of an emergency, the Service will, without notice, take over operation and control of any Activity that is, or may become, involved. Upon later receiving notice of the emergency, each CSKT Employee responsible for performing the Activity will respond as provided in Section 17.C.3 above.
  5. *Emergency Has Ceased to Exist.* When the Refuge Manager determines that an emergency has ceased to exist, she or he orally will notify the CSKT Wildlife Refuge Specialist or, where such official is not available, the employee designated in Section 17.A above. At that time, the Refuge Manager will relinquish to the CSKT operation and control of any Activity over which she or he had taken operation and control.
  6. *Report and Adjustments.* Following any emergency, the Refuge Leadership Team will prepare any required reports and review the Work Plan to determine if any adjustments are needed due to impacts on available resources.

#### **Section 18. Retrocession, Reassumption, and Expiration**

*A. Technical Assistance.* Both Parties wish to avoid the need for retrocession or reassumption of any Activity. The Service will provide the CSKT reasonable technical assistance to try to avoid reassumption or retrocession of any Activity.

*B. Retrocession by the CSKT.* At its option, the CSKT may retrocede and cease performing any or all of the Activities in accordance with Tribal Self-Governance Regulations at 25 C.F.R. Part 1000, Subpart N, using the procedures below. Unless the Service has not provided sufficient funding for CSKT to perform under the AFA, or unless there are exigent circumstances, CSKT shall provide at least 90 days advance notice prior to a retrocession taking effect.

1. *Notice.* CSKT will provide to the Refuge Manager 30 days advance written notice of intent to retrocede (Notice of Retrocession);
2. *Orderly Transition.* From the date of Notice of Retrocession to the Refuge Manager, through the effective date of the retrocession, CSKT will work with the Refuge Manager to ensure an orderly transition in returning to the Service responsibility for performing each Activity retroceded;



3. *Property.* On the effective date of the retrocession, CSKT will return all Federal property which is not needed for performance of a retained Activity;
4. *Return of Funds.* Within 30 days after the effective date of the retrocession, CSKT will return to the Service any remaining funds that the Service has provided for performing the retroceded Activity and that the CSKT has not expended in performing the retroceded Activity; and
5. *Final Report.* Within thirty days after the effective date of the retrocession, CSKT will submit to the Service a final report of work accomplished for each retroceded Activity from the beginning of the fiscal year through the date of retrocession (see also Section 11.C.2 of this AFA regarding a financial status report).

*C. Reassumption by the Service.*

1. *Tribal Self-Governance Regulations.* Subject to Section 18.A above and this Section 18.C, the Service may reassume any or all of the Activities covered by this AFA in accordance with the Tribal Self-Governance Regulations at 25 C.F.R. Part 1000, Subpart M.
2. *Criteria for Reassumption.* In accordance with the regulations cited in Section 18.C.1 above, the Service may reassume any or all of the Activities in the event the Director, on behalf of the Secretary, finds, and notifies the CSKT in writing, that its performance is causing imminent jeopardy to natural resources or public health and safety.
3. *CSKT Response to Reassumption.* Upon receiving a Notice of Reassumption of any Activity as provided in the Tribal Self-Governance Regulations at 25 C.F.R. § 1000.313, the CSKT will comply with the following procedures:
  - a. From the date of receipt of the Notice of Reassumption, through the effective date of the reassumption, CSKT will work with the Service to ensure an orderly transition in returning responsibility for performing the reassumed Activity to the Service;
  - b. On the effective date of the reassumption, CSKT will cease performing the reassumed Activity;
  - c. On the effective date of the reassumption, CSKT will return all Federal property which it does not need for performance of a retained Activity;
  - d. Within 30 days after the effective date of the reassumption, CSKT will return to the Service any funds that the CSKT has not expended in per-



forming the Activity from the effective date of this AFA through the effective date of the reassumption; and

- e. Within 30 days after the effective date of the reassumption, CSKT will submit a final report of work accomplished for each reassumed Activity from the beginning of the fiscal year through the date of reassumption (also see Section 11.C.2.b above concerning a financial status report).

*D. Expiration.* Due to the occurrences under the extended FY 2005-06 AFA, the Parties agree that CSKT will not perform work under an extension to this AFA but will perform work only under a successor AFA. The Parties therefore agree that they will commence negotiations for a successor AFA no later than February 1, 2016, with any signed successor AFA to be delivered to Congress prior to July 1, 2016. This schedule will allow such successor AFA to be effective on October 1, 2016, thereby accommodating the 90 day period required prior to the effective date of any AFA (*see* 25 U.S.C. § 458cc(f)). A Party opting to cease negotiations for a successor AFA will provide thirty days' written notice to the other Party, subject to the provisions of 25 C.F.R. § 1000.179(b) with respect to any last and best offer.

In the event that the Parties do *not* negotiate a successor AFA covering an Activity:

1. *Transition.* In the last month of the term of this AFA, the CSKT will work with the Service to ensure an orderly transition in returning to the Service responsibility for performing the Activity; and
2. *Property.* On the last day of the term of this AFA, the CSKT will return all Federal property not needed by the CSKT to perform the Activity or Activities for which the Parties are negotiating, or have executed, a successor AFA.

#### **Section 19. Other Tribal Rights and Administrative Remedies**

*A. No Effect on Trust Responsibility.* Nothing in this AFA is to be interpreted as waiving, modifying, or diminishing the trust responsibility of the United States under treaties, executive orders, and other laws with respect to any Indian Tribe or individual Indian.

*B. No Waiver of Sovereign Immunity.* Nothing in this AFA shall be construed as waiving or otherwise affecting the CSKT's sovereign immunity.

*C. Tribal Administrative Procedures.* In addition to any other available right or remedy provided by law, under CSKT Tribal Administrative Procedures Ordinance No. 86B (as amended), CSKT Tribal law and forums provide administrative due process rights to all persons with respect to Activities performed by CSKT under this AFA, except to the extent CSKT is covered by the FTCA, 28 U.S.C. §§ 2671–2680.





D. *Indian Preference.* In the administration of this AFA, the provisions of 25 U.S.C. §§ 450e(b) and (c) shall apply with respect to Indian preference, with the term “contract” interpreted as meaning this AFA.

## **Section 20. Dispute Resolution and Appeals**

### *A. Dispute Resolution.*

1. At all levels, the Parties may use written correspondence, e-mail, telephone conferences or face-to-face meetings to conduct good faith dispute resolution. For any dispute elevated, the Parties jointly will prepare a written summary of the resolution/decision to provide to the Refuge Leadership Team.
2. The Refuge Leadership Team is empowered and encouraged to informally resolve all disputes between the Parties at the field level. If the Refuge Leadership Team is unable to reach consensus, the decision of the Refuge Manager will prevail. The Manager of the CSKT Division of Fish, Wildlife, Recreation & Conservation may invoke the dispute resolution process in the event CSKT disagrees with the Refuge Manager’s decision for reasons outlined in Section 7.D.5 above. If a dispute involves an ongoing operational issue, the work will continue as decided by the Refuge Manager while the issue is in dispute.
3. To invoke the dispute resolution process, the Manager of the CSKT Division of Fish, Wildlife, Recreation & Conservation and the Refuge Manager will notify the Refuge Supervisor and the CSKT Natural Resources Department Head of the dispute issue. The notification shall be in writing and identify the issue in dispute. The notification shall also include a statement of the Refuge Manager’s decision and the Manager of the CSKT Division of Fish, Wildlife, Recreation & Conservation’s statement explaining why the decision is unacceptable to the CSKT. Once notified, the CSKT Natural Resources Department Head and Refuge Supervisor will make a good faith effort to resolve the dispute within ten working days. If they are unable to reach consensus, the decision of the Refuge Supervisor will prevail. However, if the Refuge Supervisor’s decision is unacceptable to the CSKT Natural Resources Department Head, she or he may elevate the dispute to the CSKT Tribal Council and the Regional Director.
4. To elevate the issue, the Refuge Supervisor and the CSKT Natural Resources Department Head jointly will prepare a written summary of the dispute issue for transmission to the Tribal Council and Regional Director, who will make a good faith effort to resolve the dispute within fifteen working days. If the dispute cannot be resolved by the Tribal Council and Regional Director, either may request the assistance of a mediator acceptable to both Parties. The Tribal Council and Regional Director will agree on a timeframe for the mediated dispute resolution process. If the Parties cannot reach consensus through the mediation, the decision of the Regional Director shall prevail. However, if that

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*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 34 of 38*



decision is not acceptable to the Tribal Council, it may appeal to the FWS Director. If a mediator was used by the Parties at the Regional Director/Tribal Council level, elevation of the dispute to the FWS Director shall be through the mediator.

5. For any dispute handled under this subsection involving a personnel issue, including one involving an IPA Employee, CSKT will substitute for the Tribal Council its Executive Secretary (or equivalent position in the event of any reorganization to the CSKT executive staff structure).
6. Due to the uniqueness of this AFA, the officials identified in this Section may not delegate their responsibilities under this Section.
7. Nothing in this Section diminishes or replaces the existing rights and responsibilities of the Parties or their employees under their respective personnel laws and policies.

B. *Appeals.* Resolution of disputes arising under this AFA shall be governed by the Tribal Self-Governance Regulations at 25 C.F.R. Part 1000, Subpart R (“Appeals”), and section 450m-1 of the ISDEAA (“Contract disputes and claims”). Nothing in this Section precludes either Party from availing itself of the informal dispute resolution procedures identified in Section 20.A above. However, neither Party shall be required to use those procedures prior to engaging in any appeals under this Section 20.B.

#### **Section 21. Indian Self-Determination and Education Assistance Act’s Title I Provisions**

A. In accordance with 25 U.S.C. §§ 450j(k) and 458cc(l), in performing the Activities covered by this AFA the CSKT will have access to Federal sources of supply. Nothing in this AFA is intended to limit the availability, or use by the CSKT, of technical or financial assistance that may be available from any other Federal agency, including from the Bureau of Indian Affairs under 25 U.S.C. § 450h.

B. The Parties agree that this AFA incorporates the following provisions from Title I of ISDEAA, as authorized by 25 U.S.C. § 458cc(l):

1. 25 U.S.C. § 450j(a): applicability of federal contracting laws and regulations
2. 25 U.S.C. § 450j-1(a): amounts of funds provided; carry-over
3. 25 U.S.C. § 450j-1(b): reductions and increases
4. 25 U.S.C. § 450j-1(d): treatment of shortfalls
5. 25 U.S.C. § 450j-1(f): limitation on remedies for cost disallowances
6. 25 U.S.C. § 450j-1(g): addition to contract of full amount contractor entitled
7. 25 U.S.C. § 450j-1(h): indirect costs for construction programs
8. 25 U.S.C. § 450j-1(j): use of funds for matching or cost participation requirements
9. 25 U.S.C. § 450j-1(k): allowable uses of funds
10. 25 U.S.C. § 450j-1(m): use of program income earned
11. 25 U.S.C. § 450j-1(o): re-budgeting





12. 25 U.S.C. § 450k(e): exceptions in, or waiver of, regulations
13. 25 U.S.C. §§ 450l(b) and 450l(c)(1)(b)(7)(A): Tribal records not considered Federal records for purposes of chapter 5 of Title 5 of United States Code.

## **Section 22. Modification and Correction**

*A. Modification of AFA.* Consistent with 25 U.S.C. § 450m-1(b), the Parties may modify this AFA only by amendment executed in the same manner as this AFA (but requiring only three originals rather than five), except as provided in the following AFA provisions: Section 10.B (Secretarial waiver of regulations); Section 10.E (use of CSKT performance standards); and in Section 22.B (correction of minor, non-substantive errors or omissions). Provided, however, that the Parties may execute modifications involving augmentation of funds or resources under Attachment B upon approval by the Refuge Supervisor and the Tribal Chairman. The Parties agree that, in the event the Tribal Self-Governance Act is amended, the provisions contained in this AFA shall remain in effect until the Parties jointly execute any amendments or modifications as a result of changes in the Tribal Self-Governance Act statutes or accompanying regulations.

*B. Minor Errors or Omissions.* The Parties may correct minor, non-substantive errors or omissions in this AFA that do not affect funding, by means of an errata sheet signed and dated by the Refuge Manager and the Tribal Council Chairman.

## **Section 23. Structure and Severability**

*A. Structure.* Except as used to cross-reference sections of this AFA, the section numbers and headings and the other structural elements of this AFA are for convenience only and have no bearing on the interpretation of this AFA.

*B. Severability.* If any provision of this AFA is found to be invalid by operation of law or otherwise, the remainder of this AFA will remain in full force and effect.

The Parties have reviewed relevant legal authorities and guidance on what may constitute an “inherently Federal function” within the meaning of the Tribal Self-Governance Act, including, but not limited to, the NWRSA (as amended), other federal statutes, federal court decisions, and Interior Solicitor opinions. The Parties believe that this AFA: 1) is consistent with those legal authorities; and 2) does not contract any “inherently Federal functions” to CSKT. In the event a federal court were to determine that one or more of the Activities contracted to CSKT was “inherently Federal”, it is the intent of the Parties that the remainder of this AFA shall remain in effect and the AFA shall be reformed to exclude such function(s) from the Activities contracted to CSKT.

## **Section 24. Entire Agreement**

This AFA, including Attachments A-D, sets out the entire agreement between the Parties concerning the terms and conditions under which the Service will fund and the CSKT will

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*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 36 of 38*



perform Activities at the NBRC. This AFA supersedes any and all previous, express or implied, oral or written understandings and/or agreements for funding and performing those Activities. However, nothing in this AFA shall be interpreted to supersede or nullify any Annual Fire Management Operating Plan in effect between the Parties.

#### **Section 25. Dates of Performance**

*A. Effective Date.* The effective date of this AFA shall be no earlier than ninety days after the date the Secretary submits this signed AFA to Congress, as provided in 25 U.S.C. § 458cc(f); provided that if, prior to commencement or completion of such ninety-day period, the Tribal Self-Governance Act is amended to eliminate the ninety-day congressional review period, this AFA may become effective immediately upon signature by all Parties. In order to provide time for CSKT to hire necessary staff, the effective date for CSKT performance of Activities will be [phased in, as mutually agreed-upon by the Parties, during FY 2013. This AFA will be fully effective, and CSKT will be fully performing contracted Activities, by no later than \_\_\_\_\_, 20\_\_].

*B. Commencement of Activities.* The CSKT may commence performing any Activity on the effective date, and in accordance with the terms and conditions, of this AFA. Any payment to the CSKT for performing any such Activity shall be subject to compliance with the Antideficiency Act, as provided in Section 14.H above, and other applicable laws and regulations. If the Service has reason to anticipate that Congress will not appropriate sufficient funds to pay the CSKT for performing any Activity covered by this AFA, the Service will give the CSKT prompt written notice.

*C. Term.* This AFA covers funding and Activities from its effective date through September 30, 2016. All of the terms and conditions of this AFA will apply during any extension of the term of this AFA. The Parties may modify the Activities covered by this AFA only by amending this AFA as provided in Section 22.A.

THE FOREGOING PROVISIONS OF THIS FUNDING AGREEMENT FOR FY 2013-2016 ARE HEREBY AGREED TO ON THE DATES INSCRIBED BELOW, EXECUTED IN FIVE ORIGINALS.

**CONFEDERATED SALISH AND KOOTENAI TRIBES, BY:**

\_\_\_\_\_  
Joe Durglo  
Chairman, CSKT Tribal Council

\_\_\_\_\_  
Date

*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 37 of 38*



**UNITED STATES DEPARTMENT OF THE INTERIOR, BY:**

\_\_\_\_\_  
Dan Ashe, Director, U.S. Fish & Wildlife  
Service

\_\_\_\_\_  
Date

\_\_\_\_\_, Assistant Secretary  
for Fish, Wildlife and Parks

\_\_\_\_\_  
Date

\_\_\_\_\_  
Mike Black, Director, Bureau of Indian Affairs

\_\_\_\_\_  
Date

\_\_\_\_\_  
*FY 2013-2016 FWS/CSKT AFA – March 8, 2012 DRAFT w/tech corrections as of 4/12/12 Page 38 of 38*



# **APPENDIX B**

## **Federal Register Notice**



Individuals or groups requesting to make comment at the public Committee meeting will be limited to 2 minutes per speaker, with no more than a total of 15 minutes for all speakers. Interested parties should contact Lisa Young, DFO, in writing (preferably via email), by Wednesday, August 22, 2012. (*See FOR FURTHER INFORMATION CONTACT*, to be placed on the public speaker list for this meeting.)

In order to attend this meeting, you must register by close of business Tuesday, February 12, 2013. The meeting is open to the public. Calls in lines are limited, so all interested in attending should pre-register, and at that time will be given the call in information. Please submit your name, email address and phone number to Lisa Young via email at [Lisa\\_Young@ios.doi.gov](mailto:Lisa_Young@ios.doi.gov) or by phone at (202) 208-7588.

Dated: January 17, 2013.

Lisa Young,

Designated Federal Officer.

[FR Doc. 2013-01304 Filed 1-22-13; 9:45 am]

BILLING CODE 4810-10-P

## DEPARTMENT OF THE INTERIOR

### Office of the Secretary

#### List of Programs Eligible for Inclusion in Fiscal Year 2013 Funding Agreements To Be Negotiated With Self-Governance Tribes by Interior Bureaus Other Than the Bureau of Indian Affairs

**AGENCY:** Office of the Secretary, Interior.  
**ACTION:** Notice.

**SUMMARY:** This notice lists programs or portions of programs that are eligible for inclusion in Fiscal Year 2013 funding agreements with self-governance Indian tribes and lists programmatic targets for each of the non-Bureau of Indian Affairs (BIA) bureaus in the Department of the Interior, pursuant to the Tribal Self-Governance Act.

**DATES:** This notice expires on September 30, 2013.

**ADDRESSES:** Inquiries or comments regarding this notice may be directed to Sharee M. Freeman, Director, Office of Self-Governance (MS 355H-SIB), 1849 C Street NW., Washington, DC 20240-0001, telephone: (202) 219-0240, fax: (202) 219-1404, or to the bureau-specific points of contact listed below.

#### SUPPLEMENTARY INFORMATION:

##### I. Background

Title II of the Indian Self-Determination Act Amendments of 1994 (Pub. L. 103-413, the "Tribal Self-

Governance Act" or the "Act") instituted a permanent self-governance program at the Department of the Interior. Under the self-governance program, certain programs, services, functions, and activities, or portions thereof, in Interior bureaus other than BIA are eligible to be planned, conducted, consolidated, and administered by a self-governance tribe.

Under section 405(c) of the Tribal Self-Governance Act, the Secretary of the Interior is required to publish annually: (1) A list of non-BIA programs, services, functions, and activities, or portions thereof, that are eligible for inclusion in agreements negotiated under the self-governance program; and (2) programmatic targets for these bureaus.

Under the Tribal Self-Governance Act, two categories of non-BIA programs are eligible for self-governance funding agreements:

(1) Under section 403(b)(2) of the Act, any non-BIA program, service, function or activity that is administered by Interior that is "otherwise available to Indian tribes or Indians," can be administered by a tribe through a self-governance funding agreement. The Department interprets this provision to authorize the inclusion of programs eligible for self-determination contracts under Title I of the Indian Self-Determination and Education Assistance Act (Pub. L. 93-638, as amended). Section 403(b)(2) also specifies, "nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions and activities, or portions thereof, unless such preference is otherwise provided for by law."

(2) Under section 403(c) of the Act, the Secretary may include other programs, services, functions, and activities or portions thereof that are of "special geographic, historical, or cultural significance" to a self-governance tribe.

Under section 403(k) of the Tribal Self-Governance Act, funding agreements cannot include programs, services, functions, or activities that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe. However, a tribe (or tribes) need not be identified in the authorizing statutes in order for a program or element to be included in a self-governance funding agreement. While general legal and policy guidance regarding what constitutes an inherently Federal function exists, the non-BIA Bureaus will determine whether a

specific function is inherently Federal on a case-by-case basis considering the totality of circumstances. In those instances where the tribe disagrees with the Bureau's determination, the tribe may request reconsideration from the Secretary.

Subpart G of the self-governance regulations found at 25 CFR part 1000 provides the process and timelines for negotiating self-governance funding agreements with non-BIA bureaus.

#### Response to Comments.

No comments were received.

#### II. Funding Agreements Between Self-Governance Tribes and Non-BIA Bureaus of the Department of the Interior for Fiscal Year 2012

- A. Bureau of Land Management (1)  
Council of Athabaskan Tribal Governments
- B. Bureau of Reclamation (5)  
Gila River Indian Community  
Chippewa Cree Tribe of Rocky Boy's Reservation  
Hoopa Valley Tribe  
Karuk Tribe of California  
Yurok Tribe
- C. Office of Natural Resources Revenue (none)
- D. National Park Service (3)  
Grand Portage Band of Lake Superior Chippewa Indians  
Lower Elwha S'Klallam Tribe  
Yurok Tribe
- E. Fish and Wildlife Service (2)  
Council of Athabaskan Tribal Governments  
Confederated Salish and Kootenai Tribes of the Flathead Reservation
- F. U.S. Geological Survey (none)
- G. Office of the Special Trustee for American Indians (1)  
Confederated Salish and Kootenai Tribes of the Flathead Reservation

#### III. Eligible Programs of the Department of the Interior Non-BIA Bureaus

Below is a listing by bureau of the types of non-BIA programs, or portions thereof, that may be eligible for self-governance funding agreements because they are either "otherwise available to Indians" under Title I and not precluded by any other law, or may have "special geographic, historical, or cultural significance" to a participating tribe. The list represents the most current information on programs potentially available to tribes under a self-governance funding agreement.

The Department will also consider for inclusion in funding agreements other programs or activities not listed below, but which, upon request of a self-governance tribe, the Department determines to be eligible under either



sections 403(b)(2) or 403(c) of the Act. Tribes with an interest in such potential agreements are encouraged to begin discussions with the appropriate non-BIA bureau.

#### *A. Eligible Bureau of Land Management (BLM) Programs*

The BLM carries out some of its activities in the management of public lands through contracts and cooperative agreements. These and other activities, dependent upon availability of funds, the need for specific services, and the self-governance tribe demonstrating a special geographic, culture, or historical connection, may also be available for inclusion in self-governance funding agreements. Once a tribe has made initial contact with the BLM, more specific information will be provided by the respective BLM State office.

Some elements of the following programs may be eligible for inclusion in a self-governance funding agreement. This listing is not all-inclusive, but is representative of the types of programs that may be eligible for tribal participation through a funding agreement.

#### *Tribal Services*

1. Minerals Management. Inspection and enforcement of Indian oil and gas operations; inspection, enforcement and production verification of Indian coal and sand and gravel operations are already available for contracts under Title I of the Act and, therefore, may be available for inclusion in a funding agreement.

2. Cadastral Survey. Tribal and allottee cadastral survey services are already available for contracts under Title I of the Act and, therefore, may be available for inclusion in a funding agreement.

#### *Other Activities*

1. Cultural Heritage. Cultural heritage activities, such as research and inventory, may be available in specific States.

2. Natural Resources Management. Activities such as silvicultural treatments, timber management, cultural resource management, watershed restoration, environmental studies, tree planting, thinning, and similar work, may be available in specific States.

3. Range Management. Activities such as vegetation, noxious weed control, fencing, construction and management of range improvements, grazing management experiments, range monitoring, and similar activities, may be available in specific States.

4. Riparian Management. Activities such as facilities construction, erosion

control, rehabilitation, and other similar activities, may be available in specific States.

5. Recreation Management. Activities such as facilities construction and maintenance, interpretive design and construction, and similar activities may be available in specific States.

6. Wildlife and Fisheries Habitat Management. Activities such as construction and maintenance, implementation of statutory, regulatory and policy or administrative plan-based species protection, interpretive design and construction, and similar activities may be available in specific States.

7. Wild Horse Management. Activities such as wild horse round-ups, adoption and disposition, including operation and maintenance of wild horse facilities may be available in specific States.

For questions regarding self-governance, contact Jerry Cordova, Bureau of Land Management (MS L St-204), 1849 C Street NW., Washington, DC 20240, telephone: (202) 912-7245, fax: (202) 452-7701.

#### *B. Eligible Bureau of Reclamation Programs*

The mission of the Bureau of Reclamation (Reclamation) is to manage, develop, and protect water and related resources in an environmentally and economically sound manner in the interest of the American public. To this end, most of the Reclamation's activities involve the construction, operation and maintenance, and management of water resources projects and associated facilities, as well as research and development related to its responsibilities. Reclamation water resources projects provide water for agricultural, municipal and industrial water supplies; hydroelectric power generation; flood control; outdoor recreation; and enhancement of fish and wildlife habitats.

Components of the following water resource projects listed below may be eligible for inclusion in a self-governance annual funding agreement. This list was developed with consideration of the proximity of identified self-governance tribes to Reclamation projects.

1. Klamath Project, California and Oregon
2. Trinity River Fishery, California
3. Central Arizona Project, Arizona
4. Rocky Boy's/North Central Montana Regional Water System, Montana
5. Indian Water Rights Settlement Projects, as authorized by Congress.

Upon the request of a self-governance tribe, Reclamation will also consider for inclusion in funding agreements, other

programs or activities which Reclamation determines to be eligible under Section 403(b)(2) or 403(c) of the Act.

For questions regarding self-governance, contact Mr. Kelly Titensor, Policy Analyst, Native American and International Affairs Office, Bureau of Reclamation (96-43000) (MS 7069-MIB), 1849 C Street NW., Washington DC 20240, telephone: (202) 513-0558, fax: (202) 513-0311.

#### *C. Eligible Office of Natural Resources Revenue (ONRR) Programs*

Effective October 1, 2010, the Office of Natural Resources Revenue (ONRR) moved from the Bureau of Ocean Energy Management (formerly MMS) to the Office of the Assistant Secretary for Policy, Management and Budget (PMB). The ONRR collects, accounts for, and distributes mineral revenues from both Federal and Indian mineral leases.

The ONRR also evaluates industry compliance with laws, regulations, and lease terms, and offers mineral-owning tribes opportunities to become involved in its programs that address the intent of tribal self-governance. These programs are available to self-governance tribes and are a good prerequisite for assuming other technical functions. Generally, ONRR program functions are available to tribes because of the Federal Oil and Gas Royalty Management Act of 1983 (FOGRMA) at 30 U.S.C. 1701. The ONRR program functions that may be available to self-governance tribes include:

1. Audit of Tribal Royalty Payments. Audit activities for tribal leases, except for the issuance of orders, final valuation decisions, and other enforcement activities. (For tribes already participating in ONRR cooperative audits, this program is offered as an option.)

2. Verification of Tribal Royalty Payments. Financial compliance verification, monitoring activities, and production verification.

3. Tribal Royalty Reporting, Accounting, and Data Management. Establishment and management of royalty reporting and accounting systems including document processing, production reporting, reference data (lease, payor, agreement) management, billing and general ledger.

4. Tribal Royalty Valuation. Preliminary analysis and recommendations for valuation, and allowance determinations and approvals.

5. Royalty Internship Program. An orientation and training program for auditors and accountants from mineral-



producing tribes to acquaint tribal staff with royalty laws, procedures, and techniques. This program is recommended for tribes that are considering a self-governance funding agreement, but have not yet acquired mineral revenue expertise via a FOCRMA section 202 cooperative agreement, as this is the term contained in FOCRMA and implementing regulations at 30 CFR 228.4.

For questions regarding self-governance, contact Shirley M. Conway, Special Assistant to the Director, Office of Natural Resources Revenue, Office of the Assistant Secretary—Policy, Management and Budget, 1801 Pennsylvania Avenue NW., 4th Floor, Washington, DC 20006, telephone: (202) 254-5554, fax: (202) 254-5589.

#### *D. Eligible National Park Service (NPS) Programs*

The National Park Service administers the National Park System, which is made up of national parks, monuments, historic sites, battlefields, seashores, lake shores and recreation areas. The National Park Service maintains the park units, protects the natural and cultural resources, and conducts a range of visitor services such as law enforcement, park maintenance, and interpretation of geology, history, and natural and cultural resources.

Some elements of the following programs may be eligible for inclusion in a self-governance funding agreement. This list below was developed considering the proximity of an identified self-governance tribe to a national park, monument, preserve, or recreation area and the types of programs that have components that may be suitable for contracting through a self-governance funding agreement. This list is not all-inclusive, but is representative of the types of programs which may be eligible for tribal participation through funding agreements.

#### *Elements of Programs That May Be Eligible for Inclusion in a Self-Governance Funding Agreement*

1. Archaeological Surveys
2. Comprehensive Management Planning
3. Cultural Resource Management Projects
4. Ethnographic Studies
5. Erosion Control
6. Fire Protection
7. Gathering Baseline Subsistence Data—Alaska
8. Hazardous Fuel Reduction
9. Housing Construction and Rehabilitation
10. Interpretation

11. Janitorial Services
12. Maintenance
13. Natural Resource Management Projects
14. Operation of Campgrounds
15. Range Assessment—Alaska
16. Reindeer Grazing—Alaska
17. Road Repair
18. Solid Waste Collection and Disposal
19. Trail Rehabilitation
20. Watershed Restoration and Maintenance
21. Beringia Research
22. Elwha River Restoration
23. Recycling Programs

#### *Locations of National Park Service Units With Close Proximity to Self-Governance Tribes*

1. Aniakchak National Monument & Preserve—Alaska
2. Bering Land Bridge National Preserve—Alaska
3. Cape Krusenstern National Monument—Alaska
4. Denali National Park & Preserve—Alaska
5. Gates of the Arctic National Park & Preserve—Alaska
6. Glacier Bay National Park and Preserve—Alaska
7. Katmai National Park and Preserve—Alaska
8. Kenai Fjords National Park—Alaska
9. Klondike Gold Rush National Historical Park—Alaska
10. Kobuk Valley National Park—Alaska
11. Lake Clark National Park and Preserve—Alaska
12. Noatak National Preserve—Alaska
13. Sitka National Historical Park—Alaska
14. Wrangell-St. Elias National Park and Preserve—Alaska
15. Yukon-Charley Rivers National Preserve—Alaska
16. Casa Grande Ruins National Monument—Arizona
17. Hohokam Pima National Monument—Arizona
18. Montezuma Castle National Monument—Arizona
19. Organ Pipe Cactus National Monument—Arizona
20. Saguaro National Park—Arizona
21. Tonto National Monument—Arizona
22. Tumacacori National Historical Park—Arizona
23. Tuzigoot National Monument—Arizona
24. Arkansas Post National Memorial—Arkansas
25. Joshua Tree National Park—California
26. Lassen Volcanic National Park—California
27. Redwood National Park—California
28. Whiskeytown National Recreation Area—California
29. Yosemite National Park—California
30. Hagerman Fossil Beds National Monument—Idaho
31. Effigy Mounds National Monument—Iowa
32. Fort Scott National Historic Site—Kansas
33. Tallgrass Prairie National Preserve—Kansas
34. Boston Harbor Islands National Recreation Area—Massachusetts
35. Cape Cod National Seashore—Massachusetts
36. New Bedford Whaling National Historical Park—Massachusetts
37. Isle Royale National Park—Michigan
38. Sleeping Bear Dunes National Lakeshore—Michigan
39. Grand Portage National Monument—Minnesota
40. Voyageurs National Park—Minnesota
41. Bear Paw Battlefield, Nez Perce National Historical Park—Montana
42. Glacier National Park—Montana
43. Great Basin National Park—Nevada
44. Aztec Ruins National Monument—New Mexico
45. Bandelier National Monument—New Mexico
46. Carlsbad Caverns National Park—New Mexico
47. Chaco Culture National Historic Park—New Mexico
48. White Sands National Monument—New Mexico
49. Fort Stanwix National Monument—New York
50. Great Smoky Mountains National Park—North Carolina/Tennessee
51. Cuyahoga Valley National Park—Ohio
52. Hopewell Culture National Historical Park—Ohio
53. Chickasaw National Recreation Area—Oklahoma
54. John Day Fossil Beds National Monument—Oregon
55. Alibates Flint Quarries National Monument—Texas
56. Guadalupe Mountains National Park—Texas
57. Lake Meredith National Recreation Area—Texas
58. Ebey's Landing National Recreation Area—Washington
59. Mt. Rainier National Park—Washington
60. Olympic National Park—Washington
61. San Juan Islands National Historic Park—Washington
62. Whitman Mission National Historic Site—Washington

For questions regarding self-governance, contact Dr. Patricia Parker, Chief, American Indian Liaison Office, National Park Service (Org. 2560, 9th Floor), 1201 Eye Street NW.,

Washington, DC 20005-5905, telephone: (202) 354-6962, fax: (202) 371-6609.

*E. Eligible Fish and Wildlife Service (Service) Programs*

The mission of the Service is to conserve, protect, and enhance fish, wildlife, and their habitats for the continuing benefit of the American people. Primary responsibilities are for migratory birds, endangered species, freshwater and anadromous fisheries, and certain marine mammals. The Service also has a continuing cooperative relationship with a number of Indian tribes throughout the National Wildlife Refuge System and the Service's fish hatcheries. Any self-governance tribe may contact a National Wildlife Refuge or National Fish Hatchery directly concerning participation in Service programs under the Tribal Self-Governance Act. This list is not all-inclusive, but is representative of the types of Service programs that may be eligible for tribal participation through an annual funding agreement.

1. **Subsistence Programs** within the State of Alaska. Evaluate and analyze data for annual subsistence regulatory cycles and other data trends related to subsistence harvest needs, and facilitate Tribal Consultation to ensure ANILCA Title VII terms are being met as well as activities fulfilling the terms of Title VIII of ANILCA.

2. **Technical Assistance, Restoration and Conservation.** Conduct planning and implementation of population surveys, habitat surveys, restoration of sport fish, capture of depredating migratory birds, and habitat restoration activities.

3. **Endangered Species Programs.** Conduct activities associated with the conservation and recovery of threatened or endangered species protected under the Endangered Species Act (ESA); candidate species under the ESA may be eligible for self-governance funding agreements. These activities may include, but are not limited to, cooperative conservation programs, development of recovery plans and implementation of recovery actions for threatened and endangered species, and implementation of status surveys for high priority candidate species.

4. **Education Programs.** Provide services in interpretation, outdoor classroom instruction, visitor center operations, and volunteer coordination both on and off national Wildlife Refuge lands in a variety of communities, and assist with environmental education and outreach efforts in local villages.

5. **Environmental Contaminants Program.** Conduct activities associated with identifying and removing toxic

chemicals, which help prevent harm to fish, wildlife and their habitats. The activities required for environmental contaminant management may include, but are not limited to, analysis of pollution data, removal of underground storage tanks, specific cleanup activities, and field data gathering efforts.

6. **Wetland and Habitat Conservation Restoration.** Provide services for construction, planning, and habitat monitoring and activities associated with conservation and restoration of wetland habitat.

7. **Fish Hatchery Operations.** Conduct activities to recover aquatic species listed under the Endangered Species Act, restore native aquatic populations, and provide fish to benefit Tribes and National Wildlife Refuges that may be eligible for a self-governance funding agreement. Such activities may include, but are not limited to: Taking, rearing and feeding of fish, disease treatment, tagging, and clerical or facility maintenance at a fish hatchery.

8. **National Wildlife Refuge Operations and Maintenance.** Conduct activities to assist the National Wildlife Refuge System, a national network of lands and waters for conservation, management and restoration of fish, wildlife and plant resources and their habitats within the United States. Activities that may be eligible for a self-governance funding agreement may include, but are not limited to: Construction, farming, concessions, maintenance, biological program efforts, habitat management, fire management, and implementation of comprehensive conservation planning.

*Locations of Refuges and Hatcheries With Close Proximity to Self-Governance Tribes*

The Service developed the list below based on the proximity of identified self-governance tribes to Service facilities that have components that may be suitable for contracting through a self-governance funding agreement.

1. Alaska National Wildlife Refuges—Alaska
2. Alchesay National Fish Hatchery—Arizona
3. Humboldt Bay National Wildlife Refuge—California
4. Kootenai National Wildlife Refuge—Idaho
5. Agassiz National Wildlife Refuge—Minnesota
6. Mille Lacs National Wildlife Refuge—Minnesota
7. Rice Lake National Wildlife Refuge—Minnesota
8. National Bison Range—Montana

9. Ninepipe National Wildlife Refuge—Montana
10. Pablo National Wildlife Refuge—Montana
11. Sequoyah National Wildlife Refuge—Oklahoma
12. Tishomingo National Wildlife Refuge—Oklahoma
13. Bandon Marsh National Wildlife Refuge—Washington
14. Dungeness National Wildlife Refuge—Washington
15. Makah National Fish Hatchery—Washington
16. Nisqually National Wildlife Refuge—Washington
17. Quinalt National Fish Hatchery—Washington
18. San Juan Islands National Wildlife Refuge—Washington
19. Tamarac National Wildlife Refuge—Wisconsin

For questions regarding self-governance, contact Patrick Durham, Fish and Wildlife Service (MS-330), 4401 N. Fairfax Drive, Arlington, VA 22203, telephone: (703) 358-1728, fax: (703) 358-1930.

*F. Eligible U.S. Geological Survey (USGS) Programs*

The mission of the USGS is to collect, analyze, and provide information on biology, geology, hydrology, and geography that contributes to the wise management of the Nation's natural resources and to the health, safety, and well-being of the American people. This information is usually publicly available and includes maps, data bases, and descriptions and analyses of the water, plants, animals, energy, and mineral resources, land surface, underlying geologic structure, and dynamic processes of the earth. The USGS does not manage lands or resources. Self-governance tribes may potentially assist the USGS in the data acquisition and analysis components of its activities.

For questions regarding self-governance, contact Kaye Cook, U.S. Geological Survey, 12201 Sunrise Valley Drive, Reston, VA 20192, telephone: (703) 648-7442, fax: (703) 648-7451.

*G. Eligible Office of the Special Trustee for American Indians (OST) Programs*

The Department of the Interior has responsibility for what may be the largest land trust in the world, approximately 56 million acres. OST oversees the management of Indian trust assets, including income generated from leasing and other commercial activities on Indian trust lands, by maintaining, investing and disbursing Indian trust financial assets, and reporting on these transactions. The mission of the OST is to serve Indian communities by

fulfilling Indian fiduciary trust responsibilities. This is to be accomplished through the implementation of a Comprehensive Trust Management Plan (CTM) that is designed to improve trust beneficiary services, ownership information, management of trust fund assets, and self-governance activities.

A tribe operating under self-governance may include the following programs, services, functions, and activities or portions thereof in a funding agreement:

1. Beneficiary Processes Program (Individual Indian Money Accounting Technical Functions).

2. Appraisal Services Program. Tribes/consortia that currently perform these programs under a self-governance funding agreement with the Office of Self-Governance may negotiate a separate memorandum of understanding (MOU) with OST that outlines the roles and responsibilities for management of these programs.

The MOU between the tribe/consortium and OST outlines the roles and responsibilities for the performance of the OST program by the tribe/consortium. If those roles and responsibilities are already fully articulated in the existing funding agreement with the BIA, an MOU is not necessary. To the extent that the parties desire specific program standards, an MOU will be negotiated between the tribe/consortium and OST, which will be binding on both parties and attached and incorporated into the BIA funding agreement.

If a tribe/consortium decides to assume the operation of an OST program, the new funding for performing that program will come from OST program dollars. A tribe's newly-assumed operation of the OST program(s) will be reflected in the tribe's funding agreement.

For questions regarding self-governance, contact Lee Frazier, Program Analyst, Office of External Affairs, Office of the Special Trustee for American Indians (MS 5140—MIB), 1849 C Street NW., Washington, DC 20240-0001, phone: (202) 208-7587, fax: (202) 208-7545.

#### IV. Programmatic Targets

During Fiscal Year 2013, upon request of a self-governance tribe, each non-BIA bureau will negotiate funding agreements for its eligible programs beyond those already negotiated.

Dated: January 15, 2013.

Ken Salazar,

Secretary.

[FR Doc. 2013-01246 Filed 1-22-13; 9:45 am]

BILLING CODE 4310-P

## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R1-ES-2012-N199;  
FXES11130100000C2-123-FF01 E00000]

#### Endangered and Threatened Wildlife and Plants; Recovery Plan for the Columbia Basin Distinct Population Segment of the Pygmy Rabbit (*Brachylagus idahoensis*)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

**SUMMARY:** We, the U.S. Fish and Wildlife Service, announce the availability of the approved Recovery Plan for the Columbia Basin Distinct Population Segment of the Pygmy Rabbit (*Brachylagus idahoensis*). The recovery plan includes recovery objectives and criteria and prescribes specific recovery actions considered necessary to achieve downlisting of the population from endangered to threatened status on the Federal List of Endangered and Threatened Wildlife and Plants.

**ADDRESSES:** An electronic copy of the recovery plan is available at <http://www.fws.gov/endangered/species/recovery-plans.html> and <http://www.fws.gov/pacific/ecoservices/endangered/recovery/plans.html>. Copies of the recovery plan are also available by request from the U.S. Fish and Wildlife Service, Eastern Washington Field Office, 11103 East Montgomery Drive, Spokane, Washington 99206 (phone: 509-891-6839). Printed copies of the recovery plan will be available for distribution within 4 to 6 weeks of publication of this notice.

**FOR FURTHER INFORMATION CONTACT:** Chris Warren, Fish and Wildlife Biologist, at the above Spokane address and telephone number.

**SUPPLEMENTARY INFORMATION:** We announce the availability of the approved Recovery Plan for the Columbia Basin Distinct Population Segment of the Pygmy Rabbit (Columbia Basin pygmy rabbit).

#### Background

Recovery of endangered or threatened animals and plants is the primary goal of the Endangered Species Act (Act) of 1973, as amended (16 U.S.C. 1531 *et*

*seq.*). Recovery means improvement of the status of a listed species to the point at which listing it is no longer required under the criteria set forth in section 4(a)(1) of the Act and its implementing regulations at 50 CFR 424. The Act requires the development of recovery plans for endangered or threatened species unless such a plan would not promote the conservation of the species. Recovery plans help guide the recovery effort by prescribing actions considered necessary for the conservation of the species, establishing criteria for downlisting or delisting listed species, and estimating time and cost for implementing the measures needed for recovery.

In 2007 we developed a draft recovery plan (Draft) for the Columbia Basin pygmy rabbit in coordination with the Columbia Basin Pygmy Rabbit Recovery Team, which included representatives from two U.S. Department of the Interior bureaus (Fish and Wildlife Service and Bureau of Land Management), one U.S. Department of Agriculture bureau (Natural Resources Conservation Service), two State agencies (Washington Department of Fish and Wildlife and Washington Department of Natural Resources), Washington State University, The Nature Conservancy, Oregon Zoo, Foster Creek Conservation District, and several adjunct expert contributors. In order to address available new information, ongoing implementation of adaptive management measures, and prescribed changes to specific actions defined in the Draft, we developed an amendment to the draft recovery plan (Amendment) for the Columbia Basin pygmy rabbit in 2011. Several of the above recovery team members also contributed to development of the Amendment and the final approved recovery plan.

Section 4(f) of the Act requires public notice and an opportunity for public review and comment during recovery plan development. From September 7 through November 6, 2007, we provided the Draft to the public and solicited comments (72 FR 51461). From June 29 through August 29, 2011, we provided the Amendment to the public and solicited comments (76 FR 38203). We considered all information we received during the public comment periods, along with comments solicited from expert peer reviewers, and have summarized that information and our responses to comments in an appendix to the final recovery plan. We welcome continuing comment on the recovery plan, and we will consider all substantive comments on an ongoing basis to inform the implementation of

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